

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MARIA N. GRACIA,)
)
Plaintiff,)
)
v.) No. 11 CV 07604
)
SIGMATRON INTERNATIONAL, INC.,) Chicago, Illinois
) December 15, 2014
Defendant.) 8:38 a.m.

TRANSCRIPT OF PROCEEDINGS - VOLUME 1A

BEFORE THE HONORABLE EDMOND E. CHANG

APPEARANCES:

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ALSO PRESENT: MR. GREGORY FAIRHEAD
MS. MARY BURROWS

Court Reporter: Judith A. Walsh, CSR, RDR, CRR
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WITNESS DX CX RDX RCX EXAM

PATRICK SILVERMAN

By Mr. Adams 162

By Ms. Carpenter 200

E X H I B I T S

NUMBER MARKED RECEIVED

Plaintiff's Exhibit

No. 2 173

No. 4 174

No. 3 178

No. 5 179

Defendant's Exhibit

No. 15-2 206

1 (Proceedings heard in open court:)

2 THE COURT: 11 C 7604, Gracia versus SigmaTron.

3 MR. ADAMS: Hall Adams for the plaintiff.

4 MS. KORN: Kathryn Korn for the plaintiff.

5 MS. CARPENTER: Good morning, Judge. Tiffany
6 Carpenter on behalf of SigmaTron International, Incorporated.

7 MR. RIORDAN: Timothy Riordan for the defendant,
8 SigmaTron.

9 THE COURT: Okay. We have, I think, a few
10 last-minute things to go through before we begin today, the
11 first of which is the witness list that I intend to read
12 during jury selection to see whether or not the potential
13 jurors know anyone.

14 At some point I will ask counsel to introduce
15 themselves and anyone at counsel table, but in addition to
16 that I'm going to read the following list. And you can tell
17 me if I can add anyone or I can subtract at this point:
18 Patrick Silverman, Laura Gracia, Sandra Miedema, Edward
19 Trujillo, Michael Murphy, Greg Fairhead.

20 Is he the corporate representative right there?

21 MS. CARPENTER: Yes.

22 THE COURT: So you don't have to reintroduce him.

23 David -- I'll take him off actually for this list.
24 David Niemi, Tony Truppa, Imran Haq, and Maria E. Gracia.
25 Okay. Anyone I can either add or subtract?

1 MS. KORN: I would just note that Mr. Trujillo's
2 first name is Eduardo.

3 THE COURT: Okay.

4 MR. RIORDAN: How do we pronounce it? Is it Gracia,
5 is that appropriate?

6 THE PLAINTIFF: Gracia.

7 THE COURT: Gracia. Okay. Anyone to add or
8 subtract?

9 MS. CARPENTER: You had Laura Gracia on there, right,
10 Judge?

11 THE COURT: Yes.

12 MS. CARPENTER: And that's all. Thanks.

13 THE COURT: Okay. Next, there are some objections to
14 the -- some of the demonstratives. But was there anything
15 else before we do that that the parties wanted to raise; for
16 the plaintiff?

17 MR. ADAMS: No.

18 THE COURT: Okay. For the defense?

19 MS. CARPENTER: No, Judge.

20 THE COURT: We'll do as much as we can for that.
21 We've got an updated set of trial exhibits from the defense as
22 well as their updated chart. And then in response to that,
23 the plaintiff filed something. So the first objection is to
24 Trial Exhibit 27.

25 I guess the question, are we intending to use this

1 during the trial testimony as opposed to closing arguments?

2 MS. CARPENTER: Judge, there are some that we're only
3 going to use during closing.

4 THE COURT: Right.

5 MS. CARPENTER: And this one here, certainly we could
6 use this with Ms. Miedema's testimony. She's the one who
7 authored the document.

8 THE COURT: This was, I believe, an example that I
9 pointed out in the very first pretrial session as
10 argumentative and, therefore, should not be used for opening.
11 So presumptively, it's not going to be used for testimony.

12 If you wanted to remove the title which is
13 argumentative, and then the entirety of the second page would
14 have to go. But so I don't have any problem with, I think I
15 said this before, an exhibit blown up and highlighted. That's
16 what you do for these touchscreens in any event.

17 But this has the remaining argumentative pieces that
18 I had identified. So you will not use this for testimony.

19 I'll just give you an example. 24, the policy
20 against harassment, Defendant's Exhibit 24, that's perfectly
21 fine, you know, as a demonstrative. It has a neutral title,
22 and it highlights portions of the exhibit which is going to be
23 admitted into evidence. Nothing wrong with that. But this
24 was, 27 was a prime example. And so it's disallowed for
25 testimony.

1 Okay. 29, were you intending on using this during
2 testimony?

3 MS. CARPENTER: Yes, Judge.

4 THE COURT: Same thing. So if you had just had the
5 exhibits with, you know, certain highlights, it would have
6 been fine. But this is also argumentative. You can't use it
7 in this format for testimony.

8 Okay. 32, were you planning on using this for --

9 MS. CARPENTER: No, Judge.

10 THE COURT: Okay. So that will be pushed to the
11 closing?

12 MS. CARPENTER: And Judge, just so we're clear, I did
13 say that we would be modifying these to adhere to what's been
14 actually said during trial, too.

15 THE COURT: So I thought this was the final set.

16 MS. CARPENTER: Well, what comes out during trial.
17 So and I believe that we're allowed to do that before closing
18 and then have an opportunity for the plaintiffs to see them,
19 raise any objections they have before the closing.

20 THE COURT: Right. No, that's fine. I thought you
21 were going to propose yet another round of modifications
22 before the testimony.

23 MS. CARPENTER: No.

24 THE COURT: Okay. 41, the tardiness slips.

25 MS. CARPENTER: Yes, we don't intend to use this

1 unless the Court says for some reason we can. This was one of
2 the exhibits, the exhibits contained in there are not going to
3 be admissible unless there's a door open.

4 THE COURT: Okay. And then 43.

5 MS. CARPENTER: We do intend to use this for
6 Mr. Fairhead's testimony, Judge.

7 THE COURT: All right. So --

8 MS. CARPENTER: Simply as assistive to him while he's
9 testifying about this. He created the document with my help
10 for this purpose of his testimony.

11 THE COURT: Yes. So this should come as no surprise.
12 The stated objection is that there's no response of an expert
13 witness. I think we talked about the fact that some of the
14 SigmaTron employees can testify to this based on their own
15 experience.

16 And again, this has been -- this should be no
17 surprise that a defense witness would be testifying to this.
18 What concerns me about this is, this is less of a
19 demonstrative than a summary of his testimony.

20 Some bullet point format of this for purposes of
21 closing would be perfectly fine and used for opening, but this
22 is so detailed as to be -- it's basically six pages of summary
23 of his testimony.

24 MS. CARPENTER: Judge, I should mention that these
25 are the same demonstratives that had been proposed at the very

1 outset of the pretrials, very first pretrial.

2 THE COURT: Yes.

3 MS. CARPENTER: We made no changes to it. And any
4 objections that were going to be made I believe you were going
5 to entertain at one of the last four pretrial conferences. So
6 we would humbly and respectfully suggest that any objection
7 frankly to this one would be moot and untimely.

8 THE COURT: Yes, I think we missed doing that over
9 the last pretrial session. That's as much my fault as anyone
10 else's. All right.

11 So for this one, you need to strip it down so that
12 it's not just a summary of his testimony. If you want to come
13 up with bullet points, get it down to two pages, and you can
14 use it during his testimony and closing.

15 When are you calling Mr. Fairhead in your case?

16 MR. ADAMS: Judge, he will be our third witness.

17 THE COURT: Okay. So we're not likely to get to him
18 today. So you can fix this certainly for closing. And if you
19 work on this tonight and strip it down into a couple pages of
20 bullet points, then you can use it during his testimony, his
21 own testimony. But otherwise, this is just a summary of his
22 testimony. It's not truly a demonstrative.

23 MS. CARPENTER: We'll do that, Judge. Thank you.

24 MS. KORN: Your Honor, I have to question whether
25 this topic of Mr. Fairhead's testimony was ever disclosed. I

1 don't think it was. I don't have the disclosures in front of
2 me.

3 THE COURT: Well, was this recorded in his
4 deposition?

5 MS. KORN: No, because it wasn't disclosed.

6 MS. CARPENTER: Your Honor, a very significant issue
7 in this case is whether leaded or solder -- leaded solder or
8 RoHS solder should have been used. And there's significant
9 differences between the two.

10 Mr. Fairhead has an engineering background. He's
11 worked in the industry for his entire career. There's no
12 question that he was disclosed early on, 26(a) disclosures on
13 anything that plaintiff claimed in our defenses.

14 So for -- particularly of the issue of her claim that
15 there's no big deal, you can use them interchangeably, there's
16 no differences and the outcome won't be affected at all, this
17 is precisely what this document and what his testimony
18 referring to that document allows.

19 And I believe you've already ruled that we are
20 allowed to use people at SigmaTron to explain the differences
21 and why it's so important that we need to follow our customer
22 specifications and provide to them whatever solder they
23 request.

24 THE COURT: Yes, this was a topic in the first
25 pretrial conference session. And so if you had some concerns

1 as to who they were going use as a responsive witness, you
2 could have raised this then. But also I guess more
3 importantly, the fact that Mr. Fairhead was the defendant's
4 purported decision maker and the purported decision was based
5 on leaded versus non-leaded, it should be no surprise at all
6 that he was going to testify about this.

7 So I don't -- it's admissible. That's not the
8 problem. The problem with the exhibit is the -- that it's
9 just basically a summary of the testimony.

10 Okay. Then 45, this looks like the objection is just
11 your run-of-the-mill objection as to foundation. And one side
12 says that it's the plaintiff's initials and the other side
13 says it's not.

14 Do you have -- is there going to be a witness who's
15 going to testify as to those initials being plaintiff's?

16 MS. CARPENTER: Yes, and that that's where Ms. Gracia
17 would have written her initials as well.

18 THE COURT: Okay. So the trial exhibit itself is
19 allowed in. It's also allowed for -- I think this was one of
20 the non-argumentative blowups. Let me take a look.

21 This one is okay. Okay. And then I guess Trial
22 Exhibit 50 is, I think it still has the confidential
23 designation.

24 MS. CARPENTER: We're happy to remove that, Judge.

25 THE COURT: Okay. So just get rid of that. Okay.

1 So that takes care of that.

2 Okay. Anything else before we get the jury?

3 Plaintiff?

4 All right. Defense?

5 MS. CARPENTER: No, Judge.

6 THE COURT: Okay.

7 THE CLERK: I need to talk to you before I get the
8 jury.

9 THE COURT: Okay.

10 (Pause.)

11 THE COURT: All right. This is what's going on in
12 the jury department. Apparently the phone call reminders to
13 the jurors to show up did not go out on Friday apparently. So
14 I think apparently, not talking directly to the jury
15 department supervisor, so they have fewer jurors than they
16 anticipated. And we're competing with one other criminal
17 trial.

18 So what I have asked them to do is send me as many as
19 they can as close to 25, which was my original request. And
20 they are hopefully going to do that in about ten minutes.

21 What I think I'd like to do is drop down from eight
22 to seven jurors so that we can make sure we pick a -- we
23 finish our jury selection as quickly as possible. What's your
24 reaction to that?

25 MR. ADAMS: The plaintiff has no objection.

1 MS. CARPENTER: Judge, as you might remember, we had
2 requested 12 jurors. And I understand the circumstances now,
3 but if there's going to be some number close to 25 or --
4 anything more than eight, we would like to at least have the
5 opportunity to keep eight on the jury.

6 THE COURT: All right. We'll see how many they send
7 us in ten minutes. If it's close to 25, then I'll stick to
8 eight. But if we're more like at 20, I may drop down to
9 seven.

10 The other trial doesn't even start until 10:00. So
11 what I'd like to do is get through jury selection as
12 expeditiously as possible. Hopefully we finish by lunch. If
13 we don't, we don't but if we do, then I can give back the
14 jurors that don't get picked, and it will assist that trial in
15 finishing their jury selection today as well.

16 All right. So the upshot is for now, you can take a
17 ten-minute break. Come back at 9:15, and then we'll know how
18 many jurors we have.

19 MR. RIORDAN: Your Honor, as long as we have a
20 moment, could you flush out a little bit how your procedure
21 works? You ask the whole venire the same questions and then
22 they raise their hands, is that how it works?

23 THE COURT: Yes. So from the docket entry, there's a
24 background cover letter that they will get on the second floor
25 in the jury department before they come upstairs. And then

1 pursuant to the random order list, we will sit jurors one
2 through seven and then eight through 14 in the box. And then
3 the remaining jurors will sit in the gallery.

4 So actually, whoever has their coats in that first
5 row, we're going to have to move that. And then the juror
6 number one will stand up and start delivering his or her
7 answers to background questions. And they'll just go through.
8 They inevitably miss things. And I circle back and ask to
9 fill in those gaps, and then Juror No. 2 and so on.

10 And everyone, all, let's assume, 25 for the moment,
11 all 25 will give their background. Then I ask the follow-up
12 questions, the supplemental voir dire questions. And if they
13 have a yes to that, then we follow up with that particular
14 juror. And then we go through everyone.

15 And we ask both the supplemental questions. And then
16 we are at that point, we're done qualifying them, excuse them.
17 Then we do our for cause challenges, excuse the for cause
18 challenges. And then you can apply your peremptories at that
19 point.

20 MR. RIORDAN: Thank you.

21 THE COURT: Okay. I'll see you in ten minutes.

22 (Recess.)

23 THE COURT: The court deputy is on her way up. I'm
24 still not sure exactly how many we have, but I'm hopeful that
25 we will have 25. We'll see in a minute.

1 (Pause.)

2 THE COURT: We got 28 actually, so I will seat eight.

3 (Proceedings heard in open court. Prospective jury in.)

4 THE COURT: Good morning, ladies and gentlemen.

5 Welcome to federal court. My name is Edmond Chang. I'm going
6 to be the judge presiding over the trial.

7 We also have in front here Ms. Sandra Brooks, our
8 courtroom deputy. You've met her already.

9 In the middle here is Ms. Enbar Tolidano, one of my
10 law clerks. And then one of the court's court reporters is
11 here, Judy Walsh. And we'll be all putting the trial together
12 today.

13 We're going to be picking a jury today in a civil
14 case. It's entitled Maria Gracia versus SigmaTron
15 International. I'll need to start off by saying that all of
16 us here including the lawyers and the parties, we all
17 appreciate your willingness to serve on a jury. We could not
18 operate our American justice system, which is the best in the
19 world, without people like you who are willing to serve on
20 juries.

21 So before we get started, we do need to put you under
22 oath to tell the truth because you're going to be answering
23 questions during the jury selection process.

24 Ms. Brooks?

25 THE CLERK: Will all of the jurors please rise and

1 raise your right hand?

2 (Venire sworn.)

3 THE CLERK: Thank you. You may be seated.

4 THE COURT: Okay. Now, what we're going to do is
5 seat you in a specific order. This order was randomly
6 generated. And this way it will help us keep track of the
7 answers that you give.

8 Now, Ms. Brooks is going to call your name one by
9 one. I'm going to ask you to fill first in this jury box
10 here. The first name called will be Juror No. 1. And Juror
11 No. 1 is going to sit in the front row of the jury box in the
12 seat that is closest to me, all right, closest to the front of
13 this courtroom. And then Juror No. 2 will sit to his or her
14 left and 3 and so on until we get 1 through 7.

15 And in the back row, Juror No. 8 is going to sit in
16 the back row in the seat closest to the front. And we'll fill
17 8 through 14 there.

18 Then we're going to do a little bit of musical chairs
19 because I'm going to ask the 15th juror to sit where that
20 gentleman is sitting right in the front row over there next to
21 the large video screen there because we're going to fit 15
22 through 21 in that front row of the gallery and then 22
23 through 28, and I believe there are 28 of you, will be in the
24 second row from 22 sitting closest to the wall and then 28 on
25 the aisle.

1 So 1 through 7, 8 through 14, 15 to 21, 22 to 28.
2 And don't worry, there won't be a quiz on this. If you get
3 mixed up, we'll certainly help you out.

4 All right. So I'm going to start with Juror No. 1
5 and then move forward from there. Ms. Brooks?

6 THE CLERK: Mia Young.

7 Erin Pekovitch.

8 Joanne Voll.

9 Emma Rodriguez.

10 Alesandro Perez.

11 Brenda Devito.

12 Richard Michael.

13 Dawn Gapsevich.

14 Lucero Gutierrez.

15 Michael MacDonald.

16 Tomas Delgado.

17 Julie Perfetti.

18 Brian Schifler.

19 Elise Slone.

20 THE COURT: Okay. At this point, may I ask whoever
21 is sitting in the front, in the first two rows of the gallery,
22 maybe move over to the other side. Thanks.

23 THE CLERK: Terra Sinkevicius, S-i-n-k-e-v-i-c-i-u-s.

24 Julie Padilla.

25 Johnnie Muhammad.

1 Brandon Busch.

2 Karolina Pietrusza.

3 Noah Horaney.

4 Tina Gibson.

5 Michael Flaherty.

6 THE COURT: So the front row, if you could just scoot
7 over to the wall a little bit so that we can get Ms. Gibson
8 who is No. 21 in the front row. All right. Great.

9 And Mr. Flaherty, if you would head over to the wall.

10 THE CLERK: David Bailey.

11 Adam Fluck.

12 Jeffrey Hinkle.

13 Albert Orsello.

14 Quianna Hart.

15 Sarah Andersen.

16 THE COURT: Okay. I think that's everyone. Ladies
17 and gentlemen, before we start the questioning, I do want to
18 let you know that our goal here is to sit a fair and impartial
19 jury. None of the questions are designed to embarrass you in
20 any way.

21 If there's ever an answer that you want to give in
22 private to just myself and the lawyers, just let me know. And
23 we have a microphone and a setup at the sidebar over here, and
24 we can do that in private. Just let me know. It's not a
25 problem.

1 Before we get into the questioning, I do want to make
2 sure that you know a little bit about the case so that if you
3 happen to have already heard about this case that we can ask
4 you questions about that. So please do listen closely as I
5 describe the case and then at the end of it, I'll ask you
6 whether you've heard of it at all.

7 Okay. The plaintiff, that is, the person who has
8 filed the lawsuit, is Maria Gracia. The defendant, who is
9 being sued, is SigmaTron International, Incorporated.

10 Ms. Gracia is a former employee of SigmaTron, and she
11 claims that her civil rights were violated by SigmaTron in two
12 ways. SigmaTron denies both claims. Specifically, Ms. Gracia
13 first claims that she was sexually harassed by her supervisor
14 and that the conduct made her work environment hostile or
15 abusive.

16 SigmaTron denies that Ms. Gracia was sexually
17 harassed by her supervisor, and SigmaTron also denies that a
18 reasonable person would find Ms. Gracia's work environment to
19 be hostile or abusive or that at the time the alleged conduct
20 occurred, Ms. Gracia believed the conduct made her work
21 environment hostile or abusive.

22 SigmaTron also asserts that it took reasonable
23 measures to prevent or correct any harassing conduct in the
24 workplace and that Ms. Gracia unreasonably failed to take
25 advantage of opportunity provided by SigmaTron to prevent or

1 correct the harassment or otherwise avoid harm.

2 Second, Ms. Gracia claims that she was fired by
3 SigmaTron because she complained to SigmaTron and a government
4 agency called the Equal Employment Opportunity Commission that
5 she was being sexually harassed and that she was being
6 harassed because of her national origin.

7 SigmaTron denies these allegations and further states
8 that it fired Ms. Gracia because she knowingly permitted
9 employees whom she supervised to manufacture products for a
10 customer that did not comply with the customer's written
11 specifications. Ms. Gracia denies that allegation.

12 So does anyone here happen to know anything about
13 this case?

14 Okay. I see no hands. All right. I'm going to now
15 ask the lawyers to introduce themselves and anyone else at
16 counsel table. And once again after these introductions, I'm
17 going to ask if you happen to know anyone who is sitting at
18 any of these tables.

19 For the plaintiff?

20 MR. ADAMS: Thank you, Judge.

21 Good morning. My name is Hall Adams. I represent
22 the plaintiff, my client, Maria Gracia, who is seated here to
23 my right. And Kathryn Korn, my trial partner, is seated
24 second to my right here.

25 Thank you, Judge.

1 THE COURT: All right. For the defense?

2 MS. CARPENTER: Good morning. My name is Tiffany
3 Carpenter. And along with my co-counsel, Tim Riordan, we
4 represent SigmaTron International, Incorporated. And Mr. Greg
5 Fairhead, who is SigmaTron's executive vice president, is
6 seated here to our right. Thank you.

7 THE COURT: All right. Ladies and gentlemen, do any
8 of you happen to know the lawyers or the parties in the case?

9 All right. Again, no hands. All right. Then I'll
10 read now a list of potential witnesses. And once again, the
11 goal is to find out whether you happen to know anyone who
12 might testify at trial.

13 All right. So those are Patrick Silverman; Laura
14 Gracia; Sandra Miedema; Eduardo Trujillo; Michael Murphy;
15 David Niemi; Tony Truppa; Imran Haq, H-a-q; and Maria
16 E. Gracia.

17 Do any of you happen to know any of the individuals
18 on that list?

19 All right. Again, no hands. All right. Then we're
20 going to move on to getting some background information from
21 you. You all should have received a letter from the jury
22 department. And it has on there a series of background
23 questions.

24 And what we're going to do is we'll hand each of you,
25 starting with Juror No. 1, a microphone. And I'll just ask

1 each juror in turn to stand up and go ahead and deliver the
2 answers to the questions that are on that letter.

3 So Ms. Young will start us off as Juror No. 1. All
4 right. So please do stand and go ahead.

5 PROSPECTIVE JUROR: My name is Mia Young. I live in
6 Berwyn, Illinois. I just graduated with my bachelor's in
7 social work and a minor in psychology. I currently work at
8 Culver's in Lyons, Illinois.

9 THE COURT: I'm sorry. What is that?

10 PROSPECTIVE JUROR: Culver's.

11 THE COURT: Culver's. All right. Got it.

12 PROSPECTIVE JUROR: In Lyons, Illinois. I just do
13 cashier, drive-through, drive and like make ice cream. I'm
14 not married. I don't have any children. It's just me and my
15 mother that live at home. And my hobbies, I guess I just
16 work. That's my hobby.

17 THE COURT: Okay. Let me ask, does your mom own or
18 rent the home in Berwyn?

19 PROSPECTIVE JUROR: She owns it.

20 THE COURT: She owns it?

21 PROSPECTIVE JUROR: Yeah.

22 THE COURT: Okay. And is she working outside of the
23 house?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: And what does she do?

1 PROSPECTIVE JUROR: She's a nurse.

2 THE COURT: How long has she been a nurse?

3 PROSPECTIVE JUROR: About ten years.

4 THE COURT: Okay. And then did you happen to work
5 during school?

6 PROSPECTIVE JUROR: I did.

7 THE COURT: Okay. Where is that?

8 PROSPECTIVE JUROR: Culver's.

9 THE COURT: And does that take us through, say, your
10 college years then?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Okay. Do you -- do you follow the news
13 at all and if you do, what's your news source?

14 PROSPECTIVE JUROR: I don't. I watch no TV actually.

15 THE COURT: I'm sorry?

16 PROSPECTIVE JUROR: I don't watch no TV.

17 THE COURT: All right. Okay. Thank you, Ms. Young,
18 if you can hand the mike over to Ms. Pekovitch.

19 PROSPECTIVE JUROR: Hi. I'm Erin Pekovitch. I live
20 in Lincoln Park. I guess I've lived there for the past five
21 years. I went to DePaul. And I have my bachelor's, health
22 sciences.

23 Right now I'm a physical therapy aide at NovaCare at
24 Diversey and Sheffield. I'm not married. I don't have any
25 children. I live with my boyfriend. And my hobbies, I play

1 soccer and I just work right now, also.

2 THE COURT: Okay. Let me ask, how long have you
3 worked at NovaCare?

4 PROSPECTIVE JUROR: About eight months.

5 THE COURT: Did you have a job before then?

6 PROSPECTIVE JUROR: I didn't. I played soccer at
7 DePaul, so Division 1, I didn't have time.

8 THE COURT: All right. And is your boyfriend working
9 now?

10 PROSPECTIVE JUROR: He is.

11 THE COURT: And what does he do?

12 PROSPECTIVE JUROR: He works for Wirtz Beverage
13 Company, an alcohol distributor.

14 THE COURT: Okay. And what's his duties there?

15 PROSPECTIVE JUROR: He's a regional marketing
16 manager. He just goes around and, I don't know, does
17 inventory and makes sales.

18 THE COURT: Okay. And how long has he done that?

19 PROSPECTIVE JUROR: About two months.

20 THE COURT: Did he have a job before then?

21 PROSPECTIVE JUROR: He did.

22 THE COURT: And what was it?

23 PROSPECTIVE JUROR: He worked for a startup company,
24 an app called Gratify.

25 THE COURT: What was he doing for them?

1 PROSPECTIVE JUROR: He was also like a salesperson.

2 He just went to the restaurants and whatnot.

3 THE CLERK: Did you by chance press the off button?

4 PROSPECTIVE JUROR: Maybe.

5 THE COURT: Hold on one second.

6 THE CLERK: The battery died.

7 THE COURT: You can have a seat while we address our

8 technical malfunction. This is why you don't see jury

9 selection on "The Good Wife" or "Law and Order" and so on.

10 (Pause.)

11 THE COURT: Okay. Let's see if it works now.

12 Do you follow the news and if so, do you have a

13 particular news source?

14 PROSPECTIVE JUROR: I don't, not really, no.

15 THE COURT: You don't really follow the news. All

16 right. Okay. I think that takes care of it.

17 Ms. Voll?

18 PROSPECTIVE JUROR: I'm Joanne Voll. I live in

19 Wheaton, Illinois.

20 THE COURT: If you could just keep your voice up as

21 loud as you can so that everyone in the courtroom can hear

22 you.

23 I'm sorry. So where did you live?

24 PROSPECTIVE JUROR: Wheaton, Illinois. I've lived in

25 my home for the last ten years. I have a degree in retailing.

1 I've worked in the flooring industry selling flooring for the
2 last three years. Before that I was in management for Eddie
3 Bauer for about a year and a half. And before that, I had my
4 own decorative painting business.

5 I'm married. My husband works for Sargent Lundy.
6 He's an engineer working in the nuclear industry. I have two
7 children, 26 and 23. The 26-year-old works in the logistics
8 industry in IT support. He lives in Chicago. My daughter
9 lives in Wisconsin. She works for Swiss Colony. She's a food
10 scientist.

11 No other adults live with us. Hobbies, I like to
12 bike. I like to work out and anything artistic.

13 THE COURT: How about the news? Do you follow the
14 news?

15 PROSPECTIVE JUROR: Yes, I do follow the news. I
16 watch TV. I read the newspaper. And I do go online as well.

17 THE COURT: Any particular TV news stations that you
18 watch?

19 PROSPECTIVE JUROR: Channel 7. And I read the
20 Tribune and just kind of random things online.

21 THE COURT: Okay. Any television programs that you
22 watch regularly?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: All right. Go ahead.

25 PROSPECTIVE JUROR: I like "Homeland." I watch "The

1 Newsroom." I do watch "Bones," "Parenthood," just kind of
2 random TV shows.

3 THE COURT: Okay. And you own your home in Wheaton,
4 right?

5 PROSPECTIVE JUROR: Yes, we do.

6 THE COURT: All right. Thank you.

7 PROSPECTIVE JUROR: Emma Rodriguez. I live right
8 here in the Loop. I've lived here for about a year but lived
9 in River North for about seven years before that. I own my
10 home. I have a juris doctor.

11 I'm the general counsel of Mesirow Advanced
12 Strategies. I've been for the past about four years and a
13 half. Before that I was an attorney at Sidley Austin, always
14 in alternative investments, investment management.

15 Currently, job description, I manage all our
16 investments and negotiate all of our contracts with investors
17 and with hedge fund managers.

18 I am currently married. My husband tells me he's an
19 artist. Before that, he worked at the University of Chicago.
20 And I think that covers the ten years. We have no children.
21 We don't live with other adults. And hobbies, I run. That's
22 about it.

23 THE COURT: Okay. So at Mesirow, do you have any
24 responsibility for litigation matters, or is it just
25 transactional?

1 PROSPECTIVE JUROR: Just transactional, no
2 litigation.

3 THE COURT: And then it sounds like the same thing at
4 Sidley?

5 PROSPECTIVE JUROR: Right.

6 THE COURT: Have you had occasion ever to handle an
7 employment discrimination case?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Okay. How about news sources, any news
10 sources in particular?

11 PROSPECTIVE JUROR: For general news, usually like
12 CNN, but otherwise just the Wall Street Journal.

13 THE COURT: No other newspaper subscriptions?

14 PROSPECTIVE JUROR: No.

15 THE COURT: I guess I should ask, digital or
16 otherwise these days.

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: So just the Journal?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: How about any TV programs that you
21 regularly watch?

22 PROSPECTIVE JUROR: I'm trying to think. A lot of
23 the HBO shows, but yes, just "Newsroom" is good. That's about
24 it.

25 THE COURT: That ended last night, didn't it?

1 PROSPECTIVE JUROR: Yeah.

2 THE COURT: It's over.

3 PROSPECTIVE JUROR: But yes, just like we have a HBO
4 subscription, so whatever HBO has.

5 THE COURT: Okay. And then at the University of
6 Chicago, did what did your husband do?

7 PROSPECTIVE JUROR: He was in the IT department.

8 THE COURT: All right. Thank you.

9 PROSPECTIVE JUROR: My name is Alesandro Perez. I
10 currently live in Aurora, Illinois, went to high school,
11 currently unemployed. Previous employer was Nation Pizza
12 Products. I was there for about ten years. It was pretty
13 much a food manufacturing company. I was a warehouse
14 coordinator there.

15 I'm married. I have three children. No adults
16 living with us in our current house. My hobbies are pretty
17 much working on cars and do house duties outside.

18 THE COURT: Okay. Do you own or rent in Aurora?

19 PROSPECTIVE JUROR: Rent -- I mean, own. I'm sorry.

20 THE COURT: All right. And is your spouse working
21 outside the home?

22 PROSPECTIVE JUROR: She's a stay-at-home mom right
23 now.

24 THE COURT: All right. And are any of your kids in
25 college or beyond?

1 PROSPECTIVE JUROR: 12 and under.

2 THE COURT: Okay. All right. Any particular news
3 sources that you follow the news?

4 PROSPECTIVE JUROR: None whatsoever.

5 THE COURT: And how about any TV programs that you
6 watch regularly?

7 PROSPECTIVE JUROR: Only what my son likes to watch,
8 which is "Power Rangers" and all these other cartoons.

9 THE COURT: Stuck on Nickelodeon.

10 PROSPECTIVE JUROR: Nickelodeon, Netflix, the kids
11 channels.

12 THE COURT: Okay. Thank you. Mr. Perez.

13 PROSPECTIVE JUROR: I'm Brenda Devito, and I live in
14 Addison. I have a master's degree. I work for Clearbrook,
15 which is a not-for-profit. And I'm a manager for child and
16 family connections, which is early intervention for children
17 from birth to three.

18 I am married. My husband works for Trane. He's a
19 heating and air-conditioning foreman. And he's worked there
20 for, I don't know, about 20 years. And I've worked for
21 Clearbrook for 18.

22 We have one son. He's 21. And he goes to Illinois
23 State. He's a senior, so hopefully he'll graduate. We don't
24 have any other adults that live in our household.

25 I like to read fiction. And I like outdoors things,

1 too. I read the Tribune. And usually if I watch TV news,
2 it's Channel 9. And for TV, I like to watch the "Black List."
3 And we watch a lot of outdoors channels, too.

4 THE COURT: Okay. What's your master's in?

5 PROSPECTIVE JUROR: Psychology.

6 THE COURT: And are you -- do you own or rent in
7 Addison?

8 PROSPECTIVE JUROR: We own.

9 THE COURT: Okay. Thank you.

10 PROSPECTIVE JUROR: My name is Richard Michael. We
11 live in Batavia. I've been there for about 12 years. We own
12 our own home. Two years liberal arts at Southern Illinois
13 University. I've been retired for seven years. Previous to
14 that, I was a route manager for a vending company. Job title,
15 just supervise route drivers.

16 Family information, I have two grown children in
17 their 40s, wife retired for two years. Previous to that,
18 20-some years working for McKesson, a drug distribution
19 company.

20 Let's see. Two children in their 40s, four
21 grandchildren, no one else living in our home at this time.

22 THE COURT: Okay. What did your wife do for
23 McKesson?

24 PROSPECTIVE JUROR: She was an accounts, national
25 accounts manager.

1 THE COURT: And what do your children do for a
2 living, if anything, right now?

3 PROSPECTIVE JUROR: My son is in credit collections.
4 My daughter just started a new job after raising her children
5 last week for 15 years, and I don't know what she's doing.

6 THE COURT: I'm sure it will be exciting and
7 challenging.

8 Okay. What major hobbies do you have?

9 PROSPECTIVE JUROR: I like to play golf, do a lot of
10 yard work.

11 THE COURT: And do you have a particular news source?

12 PROSPECTIVE JUROR: I watch CNN and Fox.

13 THE COURT: And is that Fox the local station or the
14 national network?

15 PROSPECTIVE JUROR: It's the one on the TV, Fox news
16 on TV.

17 THE COURT: Do you know, is it the local Chicago one
18 or --

19 PROSPECTIVE JUROR: National.

20 THE COURT: -- the national one.

21 All right. And are there any TV programs that you
22 watch regularly?

23 PROSPECTIVE JUROR: We watch "Jeopardy" quite often,
24 "The Voice," lots of sports.

25 THE COURT: Okay. Very good. Thank you. If you

1 could have the microphone make its way down this way to Juror
2 No. 8.

3 PROSPECTIVE JUROR: Hi, I'm Dawn Gapsevich. I live
4 in Joliet, Illinois. I am currently working at the Troy
5 School District. I'm a special ed teaching assistant for
6 preschool kids three to five. I've been there 12 years.

7 I'm also a server at Applebee's in Joliet. I'm a
8 single mom of four kids, 22, 19, 11-year-old twins. I have 44
9 credit hours mostly in psychology and sociology. And I do --
10 I like to watch the Blackhawks as of right now and "Criminal
11 Minds," ID channel, and I also watch the national Fox news,
12 also.

13 THE COURT: Okay. Is your 22-year-old working?

14 PROSPECTIVE JUROR: Yes. He graduated from Northern
15 University, and he's currently manager at Buffalo Wild Wings,
16 I believe in Naperville.

17 THE COURT: And how about your 19-year-old?

18 PROSPECTIVE JUROR: He's going to Western University
19 right now.

20 THE COURT: And do you own or rent in Joliet?

21 PROSPECTIVE JUROR: I own.

22 THE COURT: Okay. And did you tell us whether you
23 have -- you did tell us you watch Fox national. Okay. Thank
24 you.

25 PROSPECTIVE JUROR: Hello. My name is Lucero

1 Gutierrez. And I live here in Chicago, Illinois, for about
2 10, 15 years. I own -- I mean, I rent the place where I stay.
3 I do have an associate's degree, and I'm still in school. I
4 work as a dental assistant. And I've been working as a dental
5 assistant for about five years. And my duties are inventory
6 and assisting the dentist with procedures.

7 I am not married. I do have a four-year-old
8 daughter. And no hobbies. Whatever my daughter does, those
9 are my hobbies. And for television, I usually just watch ABC
10 news. That's about it.

11 THE COURT: Did you major in something for your
12 associate's degree in a particular area?

13 PROSPECTIVE JUROR: For nursing.

14 THE COURT: And what neighborhood in Chicago do you
15 live in?

16 PROSPECTIVE JUROR: South side.

17 THE COURT: Okay. Are there any TV programs that you
18 watch regularly?

19 PROSPECTIVE JUROR: Not really, aside of the ABC
20 news. That's about it.

21 THE COURT: All right. Thank you.

22 Mr. MacDonald?

23 PROSPECTIVE JUROR: My name is Mike MacDonald. I
24 live in Downers Grove, lived in Chicago all my life. In
25 Downers Grove, we own a home for about the last ten years with

1 my wife.

2 Let's see. I went to University of Illinois at
3 Chicago. I have a degree in mathematics with a minor in
4 physics, bachelor of science. I was a computer programmer for
5 a little while, then turned to comedy, did that for about 25
6 years, had my own comedy entertainment company called Rent a
7 Nerd, had many entertainers working for me.

8 And for the last 15 years, I have been a professional
9 nature and landscape photographer celebrating Chicago's wild
10 and natural beauty.

11 And let's see. My spouse works at Kuehne Nagel.
12 It's a logistics company, import/export company.

13 THE COURT: Can you spell the name of that company?

14 PROSPECTIVE JUROR: Believe it or not, yes, I can.
15 K-u-e-h-n as in nerd, -e, then a plus sign, N-a-g-e-l.

16 THE COURT: Okay. And that's a logistics company,
17 you say?

18 PROSPECTIVE JUROR: Yes, freight forwarding, ocean
19 export, import, things like that.

20 THE COURT: What does she do for them?

21 PROSPECTIVE JUROR: She works on a big account, just
22 tons of stuff every day, importing file cabinets and things.

23 THE COURT: Okay. I'm sorry. Go ahead.

24 PROSPECTIVE JUROR: Good. And no kids. Let's see.
25 Hobbies, I try not to have them because I'll make it a career

1 but usually native gardening, bicycling, metal working, things
2 like that. I get my news from National Public Radio. And the
3 shows I usually watch would be like PBS stuff, "Nova," like
4 mysteries and things like that.

5 THE COURT: Okay. Thank you.

6 Mr. Delgado?

7 PROSPECTIVE JUROR: My name is Tomas Delgado. I live
8 in the Portage Park neighborhood of Chicago, Illinois. I am
9 renting there, been there for about maybe four years. And
10 before that I was renting in Logan Square. The furthest I got
11 in school, certification from Malcolm X in EMT. I did one
12 year at Northeastern.

13 Employment information, I'm currently working in the
14 technology department for School District 89 for Melrose Park,
15 Maywood, and Broadview doing IT, but that would be for the
16 last month. I just started there on November 24th.

17 Before that I was doing heating and air-conditioning
18 as an installer. That was for six months, and then mainly
19 customer service before that while I was pursuing public
20 service positions, firefighter, Cook County. I did get an
21 offer from Cook County, but I ended up turning it down once I
22 found out my wife was pregnant with our second child and
23 switched focuses then.

24 Family, I am married for five years. I have a
25 three-year-old daughter and a three-month-old son. My wife

1 works for Chicago public schools as a counseling assistant.
2 She's been doing that for about a year now. Before that she
3 was working for Wintrust Mortgage, mainly working the help
4 desk. No adults live in my household.

5 News, mainly news radio in the morning and on the way
6 home during my commutes. Television show, "Walking Dead" but
7 now that that's done, I'm at the mercy of my wife and my
8 children. Hobbies, mainly just hang out with friends and
9 video games once everybody's fallen asleep.

10 THE COURT: Okay. Is there a particular news radio
11 station you listen to?

12 PROSPECTIVE JUROR: Just the local Chicago. I think
13 it's 780.

14 THE COURT: 780? Okay. They've done a very good job
15 at marketing. You call it news radio. All right. Thank you.

16 Next.

17 PROSPECTIVE JUROR: Hi, my name is Julie Perfetti. I
18 live in Glen Ellyn. I went as far as high school. I work now
19 at the Jewel. I've been there for 23 years. Married, my
20 husband has a beauty salon in Hinsdale. Two boys; 29, he's
21 out of the house. 23-year-old is still home. He just
22 graduated Columbia and is currently working at Costco.

23 News, if I catch it in the morning, I catch it, local
24 news. My hobbies are knitting, sewing. I love to garden. I
25 like being outside. And I guess that's it.

1 THE COURT: All right. Do you own or rent in Glen
2 Ellyn?

3 PROSPECTIVE JUROR: We own.

4 THE COURT: And has your husband owned the beauty
5 salon for ten years or more?

6 PROSPECTIVE JUROR: Probably 40.

7 THE COURT: All right. Congratulations.

8 PROSPECTIVE JUROR: Thank you.

9 THE COURT: Your 29-year-old, what does he do?

10 PROSPECTIVE JUROR: He's living in Downers Grove. He
11 just got married. And he is working as an accountant
12 somewhere down here. I'm not quite sure where.

13 THE COURT: Okay. Are there any TV programs that you
14 watch with regularity?

15 PROSPECTIVE JUROR: "Law and Order," "Modern Family,"
16 just entertainment.

17 THE COURT: Okay. Thank you.

18 PROSPECTIVE JUROR: I'm Brian Schiffler. I live in
19 Sugar Grove, Illinois. I got through 12 years of school. I
20 have taken some various technical classes for construction
21 technology.

22 THE COURT: If you could hold the microphone up a bit
23 closer there. Thank you.

24 PROSPECTIVE JUROR: I work for a company called
25 Frozen Monitoring Services. And I've been with them for 23

1 years now. And I am the general manager for this company and
2 responsible for the -- setting up the job sites and making
3 sure that all the people get where they need to be. We travel
4 all over the United States and some into Canada.

5 Family information, I am married. I've been married
6 for 14 years to a wonderful woman. She does -- she has a
7 full-time job taking care of me, keeping me tucked in every
8 night. She spends a lot of time in her gardens, and quite
9 often I'm solicited to help with turning over dirt for her.

10 I have two children. One of them was born in 1978,
11 and one was born 1982. And I think we have a mathematician if
12 you can't figure that out here.

13 THE COURT: All right.

14 PROSPECTIVE JUROR: One works as a -- the older one
15 works as a laborer down in Crawford County, Illinois,
16 Robinson. The other one is married, has two children. And
17 she's got a full-time job taking care of those children.

18 CNN, Channel 5, Fox occasionally, I do read the
19 paper. We do have the "Kane County Current" out in Sugar
20 Grove, Illinois, mostly for fill-in information. The weather
21 is probably the most important thing to my career. As far as
22 hobbies, I like watching football. It's too bad Chicago don't
23 get a team. Anything else?

24 THE COURT: How long have you lived in Sugar Grove?

25 PROSPECTIVE JUROR: 14 years.

1 THE COURT: And do you own or rent?

2 PROSPECTIVE JUROR: I own.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR: And the bank owns half, and the
5 government leases the property to me.

6 THE COURT: Do you watch Fox local or national or
7 both?

8 PROSPECTIVE JUROR: Both. And "The Voice." Anything
9 that gives you a little bit of mental stimulation is good for
10 me.

11 THE COURT: Okay. Thank you.

12 PROSPECTIVE JUROR: I'm Elise Slone. I'm a college
13 student, so when I'm on break I live with my parents in
14 Batavia but for the past two and a half years, I've been
15 living in Ohio where I go to school. I am currently a junior
16 in college. And I'm pursuing a degree in early childhood
17 education with a minor in Bible.

18 I have worked for the past year at a snack shop at my
19 school, and I just run the register. I'm not married. I do
20 not have any children. My mom doesn't work. She stays at
21 home with my siblings. And my dad has worked in computer
22 security for as long as I can remember.

23 I don't really have any hobbies because I spend all
24 my time studying. And I get my news from the national Fox
25 news.

1 THE COURT: I'm sorry. From where?

2 PROSPECTIVE JUROR: Fox news, national.

3 THE COURT: Okay. Do your parents own or rent in
4 Batavia?

5 PROSPECTIVE JUROR: They own.

6 THE COURT: And how long have you lived there aside
7 from college?

8 PROSPECTIVE JUROR: I think around 18 years.

9 THE COURT: And what college are you attending?

10 PROSPECTIVE JUROR: Cedarville University.

11 THE COURT: Okay. You mentioned siblings. Are any
12 of them out of school yet?

13 PROSPECTIVE JUROR: I have two older brothers. One
14 of them works in construction, and he lives in Oswego. And my
15 second older brother, he is a Marine, and he lives in
16 California. And I have two younger sisters. One of them is
17 also a college student, and she goes to the same school I go
18 to, and my younger sister is in high school.

19 THE COURT: Okay. Thank you.

20 All right. Now we're going to get the microphone to
21 Juror No. 15.

22 PROSPECTIVE JUROR: Good morning. My name is Terra
23 Sinkevicius. I live in the Jackson Park Highlands here in
24 Chicago. I have a bachelor's degree in liberal arts, master's
25 degree in education with advanced studies in library science.

1 For at least the past five years, I've been a Chicago
2 public school teacher for Mandarin Chinese. My job duties
3 were to instruct students in the basics of Mandarin pinyin,
4 pronunciation, character writing, strokes, and basic sentence
5 structure.

6 I am married. My husband is an audio and production
7 engineer. He works for Chicago Recording Company. He's also
8 an adjunct faculty member at DePaul where he teaches sound
9 engineering. And he also owns Media Streamwave, which is a
10 production company. They do shows like Lollapalooza,
11 Pitchfork, and Coachella and things like that.

12 I have one son. He's 21. He's in college studying
13 to be an EMT. He just took the firefighter exam. So that's
14 his goal. He's a lifeguard, also, at the college. He
15 definitely lives with us.

16 Let's see. Oh, my hobbies, I'm an ordained minister,
17 and I conduct regular Bible studies. And I'm a Bible scholar.
18 Usually I watch JW, tv.jw.org, which is Jehovah's Witness
19 television station which has a variety of different topics to
20 help families.

21 For news, I read the "Wall Street Journal." I read
22 "China Daily;" electronically, BBC News. I am an avid avoider
23 of Fox news. And let's see. Yes, I think that's it.

24 THE COURT: Okay. Do you own or rent in Jackson
25 Park?

1 PROSPECTIVE JUROR: We own.

2 THE COURT: And around how long have you lived there?

3 PROSPECTIVE JUROR: I think about eight years now.

4 THE COURT: Okay. I think that does it.

5 PROSPECTIVE JUROR: My name is Julie Padilla. I live
6 in Chicago. I am about to get my associate's degree in
7 Malcolm X majoring in psychology. I haven't worked, just
8 school.

9 I live with my mom. She's the only adult I live
10 with, which my sister, she goes to high school. I'm not
11 married, and I don't have any children. And my hobbies are
12 reading and playing video games.

13 THE COURT: I'm sorry. What was that last piece?

14 PROSPECTIVE JUROR: Playing video games.

15 THE COURT: Okay. What neighborhood in Chicago would
16 you say you live in?

17 PROSPECTIVE JUROR: Archer Heights.

18 THE COURT: And how long have you lived there?

19 PROSPECTIVE JUROR: About five years.

20 THE COURT: Does your mom own or rent that place?

21 PROSPECTIVE JUROR: Rent.

22 THE COURT: And is she working?

23 PROSPECTIVE JUROR: No. She's on disability.

24 THE COURT: Okay. Do you follow the news and, if so,
25 do you have a particular news source?

1 PROSPECTIVE JUROR: I watch the news whenever I catch
2 it or I'm watching TV, like Fox or WGN or ABC.

3 THE COURT: Okay. Thank you.

4 Mr. Muhammad?

5 PROSPECTIVE JUROR: My name is Johnnie Muhammad.
6 I've lived in Chicago for the last about 20 years. I live in
7 an apartment where I rent with my daughter. I have a
8 bachelor's degree in political science, master's degree in
9 urban planning and community development. I currently work
10 for a real estate company where I do leasing and real estate
11 sales. I've done that for about the last four years. Prior
12 to that, I was a community planner at a nonprofit agency.

13 I am divorced. I have four children ranging from
14 ages 29 to 13. Today is my 29-year-old's birthday. She works
15 for General Electric. She is a human resource manager. And
16 she lives in Connecticut. My 19-year-old -- excuse me. My
17 20-year-old lives with me here in the city.

18 Major hobbies, probably Sunday football, Monday night
19 football, reading nonfiction and actually reading news over
20 the internet and, you know, communicating with people about
21 news stories.

22 THE COURT: Okay. Are there any particular news
23 sites that you visit more often?

24 PROSPECTIVE JUROR: Let's see. I listen to 780 AM,
25 National Public Radio, MSNBC. I use those as kind of news

1 sources, Huffington Post. I do watch Fox news, too, but not
2 for news. That's about it.

3 THE COURT: Okay. And what neighborhood of Chicago
4 would you say you live in?

5 PROSPECTIVE JUROR: Woodlawn.

6 THE COURT: And the work at the community nonprofit,
7 does that take us back to ten years in your employment
8 history?

9 PROSPECTIVE JUROR: Yes. That was from 2004 to 2010.

10 THE COURT: Okay. Thank you.

11 PROSPECTIVE JUROR: You're welcome.

12 THE COURT: We've got a question from -- did you have
13 a question?

14 PROSPECTIVE JUROR: Yes. I may have inadvertently
15 gave incorrect information because my current employer is no
16 longer Chicago public schools. I'm actually studying to do
17 patent law at John Marshall, but that's in the fall. So right
18 now, I'm not working for Chicago public schools.

19 THE COURT: I see.

20 PROSPECTIVE JUROR: I'm sorry about that.

21 THE COURT: Mr. Busch, you can sit down for a second.

22 Let me just follow up on that for a moment. So you
23 worked for Chicago public schools for about five years?

24 PROSPECTIVE JUROR: Until August of this year. So I
25 have to complete physics classes in order to get into the

1 patent program -- well, not to get into but if I do
2 internships, I have to have a science background, but that's
3 not until the fall of 2015.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR: So that's what I'm doing now, is
6 studying physics to prepare for that program in the fall at
7 John Marshall.

8 THE COURT: Okay. And before the Chicago public
9 schools, did you have a job?

10 PROSPECTIVE JUROR: Yes. That was at DePaul
11 University as the circulation manager in the library.

12 THE COURT: And how long were you there?

13 PROSPECTIVE JUROR: I was there for nine -- for eight
14 years.

15 THE COURT: Okay. Thank you.

16 PROSPECTIVE JUROR: I didn't want to lie. I had
17 forgotten about that part.

18 THE COURT: Okay. I got it. All right. Thank you.
19 All right. Now we'll send it back to Mr. Busch.

20 PROSPECTIVE JUROR: My name is Brandon Busch. I live
21 here in the Loop. I own my place. I've been there for about
22 three years. Prior to that, I was living in Wrigleyville.

23 I work for HTC America. It's a company out of
24 Bellevue, Washington. I went to school at Ball State
25 University in Indiana. I'm currently going to DePaul right

1 now working on my MBA. I will be done in May. I'm not
2 married, no kids. Nobody else lives with me in my place.

3 My major hobbies are sports, more specifically golf.
4 I like to read sports news, ESPN.com, deadspin.com. I pretty
5 much get my news from the internet, a little bit of TV, a
6 little bit of sports center, not very much local news at all.

7 THE COURT: Okay. What did you major in at Ball
8 State?

9 PROSPECTIVE JUROR: Marketing.

10 THE COURT: And what do you do for HTC America?

11 PROSPECTIVE JUROR: I do channel sales distribution
12 in the midwest. I have about a 15 or 16-state territory.

13 THE COURT: How long have you worked there?

14 PROSPECTIVE JUROR: Four years.

15 THE COURT: And did you work before that?

16 PROSPECTIVE JUROR: A couple years at Motorola.

17 THE COURT: And what were you doing for them?

18 PROSPECTIVE JUROR: Same thing.

19 THE COURT: Okay. And does that take us back to
20 college?

21 PROSPECTIVE JUROR: Yeah.

22 THE COURT: Okay. So other than the sports news
23 sites, are there any news internet sites that you visit
24 regularly?

25 PROSPECTIVE JUROR: Maybe a little bit of Yahoo.com

1 as it pops up in the search engine.

2 THE COURT: All right. Thank you.

3 PROSPECTIVE JUROR: Hello, my name is
4 Karolina Pietrusza. I live in Palos Hills with my parents.
5 Right now I'm a current student at UIC studying biology and
6 concentration in premedical science.

7 I work for MacNeal Hospital in Berwyn, Illinois. I
8 am a rehab aide, so I help physical and occupational therapy.
9 Prior to that I worked at C.H. Robinson, third party logistics
10 company in Chicago. I was a dispatcher.

11 My mom has a small business. She has a cleaning
12 business. My dad is on disability. And as far as hobbies, I
13 like to run and work out. I don't really watch TV because I'm
14 always studying or working.

15 THE COURT: Okay. And do your parents own or rent in
16 Palos Hills?

17 PROSPECTIVE JUROR: Own.

18 THE COURT: And how long have you worked at MacNeal?

19 PROSPECTIVE JUROR: Over a year, a little bit over a
20 year.

21 THE COURT: And then how long at C.H. Robinson?

22 PROSPECTIVE JUROR: About a year and a half.

23 THE COURT: Okay. Did you have a job before then?

24 PROSPECTIVE JUROR: I worked at a shoe store. I was
25 in high school.

1 THE COURT: Okay. Any particular news source?

2 PROSPECTIVE JUROR: Not really.

3 THE COURT: All right. Thank you.

4 PROSPECTIVE JUROR: Thank you.

5 PROSPECTIVE JUROR: Noah Horaney. I'm from Streator,
6 Illinois. I'm currently a student. I have my associate's in
7 general applied science, so I'm working my way towards a
8 criminal justice degree.

9 I work at Streator Drugs. It's a pharmacy, liquor
10 store, convenience store in Streator. I'm not married, don't
11 have any children. I live at home with my parents. My mom is
12 a secretary at Associated Foot and Ankle Clinic. And my dad
13 is recently retired. He was a correctional officer at
14 Sheridan.

15 My hobbies, coaching and playing soccer or any sports
16 really. And I get my news from mostly CNN. That's about it.

17 THE COURT: All right. Any TV programs you watch
18 regularly?

19 PROSPECTIVE JUROR: I watch kind of comedy, like
20 "It's Always Sunny in Philadelphia" or "The Office" or "The
21 League." That's about it.

22 THE COURT: All right. How long have you lived in
23 Streator?

24 PROSPECTIVE JUROR: My whole life.

25 THE COURT: And do your parents own or rent there?

1 PROSPECTIVE JUROR: They own.

2 THE COURT: And how long have you been working at the
3 drugstore?

4 PROSPECTIVE JUROR: About three, four years,
5 somewhere in there.

6 THE COURT: Did you have a job before then?

7 PROSPECTIVE JUROR: I worked a year at the House of
8 Furniture delivering furniture.

9 THE COURT: Okay. Anything before that?

10 PROSPECTIVE JUROR: No. That was it.

11 THE COURT: Okay. Thank you.

12 Ms. Gibson?

13 PROSPECTIVE JUROR: Hello. My name is Tina Gibson.
14 I live in Northlake, Illinois. I've been there seven years.

15 THE COURT: Ms. Gibson, if I could ask you to just
16 project a bit more and speak up a bit.

17 PROSPECTIVE JUROR: Yes. I live in Northlake,
18 Illinois. I've lived there seven years.

19 THE COURT: All right.

20 PROSPECTIVE JUROR: High school education. Right now
21 I work as an administrative assistant for an in-home and
22 assistant company. It's a very hectic job, so I don't -- I
23 haven't watched the news or anything like that lately.

24 THE COURT: You haven't missed anything.

25 PROSPECTIVE JUROR: But I am married to a wonderful

1 man for seven years. He's a retired mailman. We don't have
2 any children. No one else lives with us.

3 And my hobbies, when I'm not working overtime, I do
4 paint while my husband, he likes the sports and stuff like
5 that. But that's about it.

6 THE COURT: Okay. Are there any TV programs that you
7 watch regularly?

8 PROSPECTIVE JUROR: No. I'm working. At this time
9 of year, no, I am working. I come home and I'm ready to go to
10 bed.

11 THE COURT: Okay. And --

12 PROSPECTIVE JUROR: I used to watch CNN and Fox news,
13 but I'm too tired when I get home from work now.

14 THE COURT: Understandable. Do you own or rent in
15 Northlake?

16 PROSPECTIVE JUROR: Rent.

17 THE COURT: And how long have you been an
18 administrative assistant for your current employer?

19 PROSPECTIVE JUROR: Three months.

20 THE COURT: And where --

21 PROSPECTIVE JUROR: Before then, I worked at the
22 airport for seven years.

23 THE COURT: And what did you do there?

24 PROSPECTIVE JUROR: Administrative assistant.

25 THE COURT: Okay. Did you have a job before that

1 one?

2 PROSPECTIVE JUROR: Yes. Before that, I worked at a
3 hospital for a year. Oh, and then I worked for Sears for 27
4 years.

5 THE COURT: Okay. What did you do for them?

6 PROSPECTIVE JUROR: An administrative assistant.

7 Yes, I was administrative there, also.

8 THE COURT: Okay. Thank you.

9 We're going to send it down now to Mr. Flaherty near
10 the wall.

11 PROSPECTIVE JUROR: My name is Michael Flaherty. I'm
12 from Palatine, Illinois. I've lived there all my life except
13 for six months where I was living in Appleton, Wisconsin,
14 being a teenager.

15 I am currently a junior at Columbia College, Chicago,
16 studying radio with a minor in voiceover. Right now I am
17 working as an independent contractor in the voiceover industry
18 where I'm done some internal learning for a local credit union
19 and the Nielsen company.

20 THE COURT: So nothing we would have heard yet?

21 PROSPECTIVE JUROR: No. It's all internal.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR: Before that, I worked at Legoland
24 Discovery Center out in Schaumburg and before that at Toys R
25 Us in Appleton. And then I also worked at the UPS store out

1 in Palatine where I'm from.

2 Let's see. My mother stopped working when I was
3 about four. And my father currently works as a vice president
4 of a company called Holland Co. which does railroad repairs
5 and like repair vehicles and they build them there.

6 I'm not married. I don't have any children, as far
7 as I know. Other than my parents and myself, no one else
8 lives with us. I watch ABC, NBC, "60 Minutes," "Good Morning
9 America," no idea what station that's on. It's too early in
10 the morning.

11 I watch a lot of shows on BBC, a big fan of "Doctor
12 Who," "Southpark," "Family Guy," "Big Bang Theory." And in my
13 spare time, I play video games. I do the voiceover stuff just
14 for free for people. And I play a fictional sport called
15 Quidditch for my college. That's about it.

16 THE COURT: Okay. Do your parents own or rent in
17 Palatine?

18 PROSPECTIVE JUROR: They own.

19 THE COURT: Okay. Thank you.

20 PROSPECTIVE JUROR: Hi, my name is David Bailey. I
21 own a home in Wilmette, Illinois. We've owned there for about
22 two and a half years. Prior to that, my wife and I lived in
23 Roscoe Village for about eight years.

24 I have a bachelor's in science. I manage a
25 residential real estate office in Lincoln Park. I've been

1 with that company for about ten years. My wife is an
2 attorney. She works in family law. And I have three kids
3 under the age of five. So that's kind of my hobby as well.

4 In terms of news sources, I read a lot of the "Wall
5 Street Journal," "Crain's," the "Trib," and "Sun-Times."

6 THE COURT: Okay. How about any TV programs that you
7 watch?

8 PROSPECTIVE JUROR: Chicago sports teams mainly when
9 I have time.

10 THE COURT: And does your wife practice as part of a
11 firm, or does she have her own practice?

12 PROSPECTIVE JUROR: She's of counsel at a firm
13 primarily doing research and writing for them at this point.

14 THE COURT: And you said it was family law, right?

15 PROSPECTIVE JUROR: Family law, correct.

16 THE COURT: Do you know whether she's ever had
17 occasion to handle an employment discrimination case?

18 PROSPECTIVE JUROR: Not that I'm aware of.

19 THE COURT: Okay. What was your bachelor's in?

20 PROSPECTIVE JUROR: Psychology.

21 THE COURT: Okay. Thank you.

22 Next?

23 PROSPECTIVE JUROR: Good morning. My name is Adam
24 Fluck. I've lived in the West Loop for about six years where
25 I rent. I've got a bachelor's degree in business

1 administration, finance. I've worked for the Chicago Bulls
2 for about 15 seasons now where I do corporate communications.
3 I'm single. No one else living with me aside from a
4 four-and-a-half-year-old Gordon setter which takes up a good
5 amount of my time.

6 Other hobbies and interests, a lot of sports, some
7 traveling. I get my news from local and national NBC as well
8 as WGN and Twitter. And television programs, a lot of sports,
9 things like that.

10 THE COURT: I assume you watch the Bulls.

11 PROSPECTIVE JUROR: That's part of the job.

12 THE COURT: Okay. Thank you.

13 Mr. Hinkle?

14 PROSPECTIVE JUROR: Hi, my name is Jeff Hinkle. I
15 live in Morris, Illinois.

16 THE COURT: I'm sorry. Where is that?

17 PROSPECTIVE JUROR: Morris. I am working on my
18 degree in hospitality management and event planning. I'm
19 working at a Hampton Inn now. Before that it was a Days Inn,
20 and before that it was a PetSmart warehouse.

21 I'm not married. I have a 20-year-old living with me
22 that is my nephew that needs a job. My hobbies are anything
23 outdoors. I love to be outside. I like to watch UFC, college
24 football, comedies. And my main news source is WGN radio.

25 THE COURT: Okay. Do you own or rent in Morris?

1 PROSPECTIVE JUROR: I'm renting. I'm sorry.

2 THE COURT: Okay. And how long have you lived there?

3 PROSPECTIVE JUROR: At this facility, a year and a
4 half, but in Morris, all my life.

5 THE COURT: All right. And what are your job duties
6 at the Hampton Inn?

7 PROSPECTIVE JUROR: I'm front desk.

8 THE COURT: Okay. Thank you.

9 PROSPECTIVE JUROR: Thank you.

10 PROSPECTIVE JUROR: Hello, my name is Albert Orsello.
11 I live in Rogers Park, city of Chicago. I have a master's
12 degree in counseling psychology. I am employed by the
13 Prevention Partnership, a nonprofit agency in the Austin
14 neighborhood which focuses on prevention and health promotion
15 in the areas of underage drinking, HIV/AIDS and STIs, bullying
16 and violence, and pregnancy prevention.

17 Family information, I'm married. I have three
18 children. My wife is a social worker at Golf School District
19 67. I have three children. Now one is working up in the Twin
20 Cities area as a public health, in the area of public health.
21 And she's also going to school, getting a nursing degree.

22 My other two children, one is in high school and one
23 is in middle school. And no other individuals live in our
24 house.

25 I get my news from CNN, NBC, CNBC, and the internet.

1 And my favorite TV show is just whatever is on at the time.

2 And I enjoy walking for exercise.

3 THE COURT: All right. Do you own or rent in Rogers
4 Park?

5 PROSPECTIVE JUROR: I own.

6 THE COURT: And how long have you lived there?

7 PROSPECTIVE JUROR: About 20 years.

8 THE COURT: And at the Prevention Partnership, given
9 your degree, are you providing counseling, is that --

10 PROSPECTIVE JUROR: I'm the president, CEO of the
11 company.

12 THE COURT: Okay. And how long have you been -- held
13 that job?

14 PROSPECTIVE JUROR: I started it in 1987.

15 THE COURT: Okay. The internet news sites, are those
16 basically the website of the TV channels that you mentioned?

17 PROSPECTIVE JUROR: Yes, just general, whatever.

18 THE COURT: Okay. Thank you.

19 Ms. Hart?

20 PROSPECTIVE JUROR: Hi, My name is Quianna Hart. I
21 have a master's degree in public health. Employment
22 information, I currently work for Sigma Services as a behavior
23 specialist. Prior to that, I have held three jobs at the
24 University of Illinois as a student supervisor, building
25 operation supervisor, as well as a clerical assistant. Prior

1 to that was working at Jewel-Osco as a cashier.

2 I currently stay with my parents. They are, my dad
3 is on disability. And my mom just resigned about two months
4 ago. They own the home which we live.

5 Major hobbies include hanging out, watching TV. News
6 sources, I like to watch NBC or ABC usually at 10:00. And
7 that's it.

8 THE COURT: Okay. So what do you do for Sigma
9 Services? What are your job duties there?

10 PROSPECTIVE JUROR: I am a behavior specialist. I
11 work with people with developmental disabilities, conducting
12 functional assessments and training staff in the deescalation
13 of behavior in addition to crisis intervention.

14 THE COURT: And your mom resigned two months ago.
15 What was she doing?

16 PROSPECTIVE JUROR: She was a para transit driver.

17 THE COURT: And what TV programs do you watch
18 regularly?

19 PROSPECTIVE JUROR: "Gray's Anatomy," "Scandal," "Law
20 and Order."

21 THE COURT: All right. Thank you.

22 PROSPECTIVE JUROR: Hi, I'm Sarah Andersen. During
23 the school year, I live in Evanston, Illinois. I have an
24 apartment. I rent. But otherwise, I live in Tinley Park,
25 Illinois, where my parents own a home. But for the last four

1 months, I was living in a suburb of Copenhagen in Denmark,
2 just got back last night.

3 THE COURT: What's the time difference?

4 PROSPECTIVE JUROR: Seven hours. I'm actually doing
5 pretty well.

6 I'm currently at school at Northwestern University
7 studying statistics and a minor in business. I work at the
8 student center on campus. My official title right now is
9 center manager, in which case I'd be responsible for like
10 taking care of the building in general while I'm there. But I
11 haven't actually worked a shift yet because I was abroad.

12 Before that, I was a supervisor for the operations
13 setting up tables and chairs and providing general customer
14 service and information desk and all that. And before that, I
15 was just a regular operations staffer.

16 Not married, no kids. I -- my mother works at NPS
17 in -- oh, I can never remember the name of the town. It's
18 like southwest, I think, suburb. She's an accountant, a
19 public accountant.

20 My dad actually started a new job while I was abroad,
21 so I don't know where it is. And I don't know the name of the
22 company. But he is a civil engineer. Before that, he was at
23 EDI, Environmental Design International, downtown. And before
24 that, he was at SOM, Skidmore, Owings & Merrill downtown.

25 Do you want to know my host parents in Denmark or my

1 roommate?

2 THE COURT: I think we can skip that.

3 PROSPECTIVE JUROR: Okay.

4 THE COURT: Thank you.

5 PROSPECTIVE JUROR: I like to do theater. I work
6 behind the scenes usually. I haven't really been keeping up
7 with the news while I was away. But before that, I would
8 check in on CNN occasionally. I think I'm going to switch to
9 BBC, though. I like to watch "Modern Family," "New Girl."

10 THE COURT: Okay. And what year are you in at
11 Northwestern?

12 PROSPECTIVE JUROR: Junior.

13 THE COURT: Okay. Thank you.

14 Okay. I do have a few follow-up questions. You can
15 hold on to the microphone because we're going to need to pass
16 it around again. So at this point, what I'm looking for is
17 whether you have a yes answer, okay, to this question. If you
18 have a yes answer, then I'll follow up with some additional
19 questions.

20 For the first supplemental questions, have you ever
21 owned a business or otherwise been in a supervisory job
22 position where you had the authority to fire an employee?

23 All right. Ms. Voll, if we can pass the microphone
24 up to Ms. Voll. Okay. Go ahead. When was this?

25 PROSPECTIVE JUROR: When I had my own business, I had

1 a painting business, I did have assistants working for me, so
2 I could have fired them if they weren't up to my standards.

3 THE COURT: Okay. Did you ever have to fire
4 somebody?

5 PROSPECTIVE JUROR: No, I did not. I was a comanager
6 at Eddie Bauer, so I had supervisory responsibilities there.
7 So I had to do job coaching, you know. I had to, you know,
8 discuss, you know, issues with people.

9 And then in my very first job out of college, I was
10 in regional management for Marshall Field's, and I was a
11 retail buyer. I did have people working for me. So if I had
12 employee issues, I would have had to address them, but I would
13 have a personnel department to go through.

14 THE COURT: Okay. And then so either at Eddie
15 Bauer or Marshall Field, did you ever recommend that somebody
16 be fired?

17 PROSPECTIVE JUROR: No, I did not.

18 THE COURT: Okay. Thank you.

19 Anyone else in the front row? All right.
20 Ms. Rodriguez?

21 PROSPECTIVE JUROR: Yes. So currently as part of my
22 duties, I cannot unilaterally fire people, but I do review
23 people who are being recommended for dismissal.

24 THE COURT: Are you the general counsel?

25 PROSPECTIVE JUROR: Yes, but the way our company is

1 set up, there's a general counsel that does all the corporate
2 work and HR work separate from me. So I only focus on our
3 investment mandates. But I do review the list that comes
4 through. I can't tell people to be fired or not because
5 that's -- I don't do HR.

6 THE COURT: Okay. And in this position, have you
7 ever recommended that someone be fired?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Okay. That's it? All right.

10 Mr. Perez?

11 PROSPECTIVE JUROR: In my previous employer,
12 warehouse coordinator, I was pretty much reviewing and
13 approving terminations, also getting the approval through HR,
14 running it by HR, letting them know what transpired and what
15 we were planning on doing with the employee.

16 THE COURT: Okay. And did you ever approve a
17 termination?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Okay. And around how many times?

20 PROSPECTIVE JUROR: About ten years of management,
21 and there's -- I couldn't answer that question. It's too
22 many. The employees fire themselves sometimes.

23 THE COURT: All right. So are we -- are we talking
24 about in the dozens?

25 PROSPECTIVE JUROR: Possibly.

1 THE COURT: All right. Anyone else in the front row?
2 Ms. Devito.

3 PROSPECTIVE JUROR: Currently I'm a manager for case
4 managers and so I -- I could -- I would go with our HR
5 department to be able to terminate people when they needed,
6 when we do.

7 And prior to that -- I mean, really honestly,
8 throughout my whole career in social services, I've managed.
9 So I managed group homes and had people that work for us there
10 and unemployment services program. So I have been a manager
11 for probably close to 30 years.

12 THE COURT: Okay. And so have you ever had occasion
13 to recommend a firing?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Okay. And about how many times?

16 PROSPECTIVE JUROR: Well, again, over 30 years and
17 part-time residential people who -- you know, I would say
18 probably in the dozens as well.

19 THE COURT: All right. Thank you.

20 Anyone else in that front row? No. Okay.

21 The second row. Mr. MacDonald?

22 PROSPECTIVE JUROR: Yes. During my -- when I -- when
23 Rent a Nerd was going on, I would hire technically independent
24 contractors, not really employees, and get them up to speed.
25 They were talented already but, you know, was evaluating their

1 work ethic on the job doing performances and things.

2 And, you know, there would be like a training period.
3 I didn't want to call it training. They were already super
4 talented. There was a period, you know. And then sometimes
5 just people just didn't pan out because of more of their work
6 ethic than their talent.

7 THE COURT: Okay. And how many times did you have to
8 let someone go?

9 PROSPECTIVE JUROR: So many people. Maybe five the
10 total time. I mean, usually they were invited to leave, you
11 know, or something like that. But it didn't happen terribly
12 often.

13 You usually know when things are going down the tubes
14 or they've been with me ten years or something, it's like,
15 okay, let's just part ways.

16 THE COURT: Okay. Any other capacity, just that one?

17 PROSPECTIVE JUROR: Correct.

18 THE COURT: All right. Great.

19 Anyone else in this back row? Mr. Schifler.

20 PROSPECTIVE JUROR: Yes. I am a general manager for
21 the company. So it comes across my desk quite often where
22 people aren't working up to standards. I do not believe in
23 firing. We just retrain, find out what their commitment,
24 commitments to themselves and to their family are. And
25 generally if they're not interested in the work we do, they

1 just tend to drift away.

2 Over the history that I worked with this company, we
3 have had cases where people got fired for substance abuses and
4 things that are pretty straightforward.

5 THE COURT: Okay. So have you ever approved a firing
6 for something other than substance abuse that's performance
7 related?

8 PROSPECTIVE JUROR: No.

9 THE COURT: All right. Anyone on that back row?
10 All right. How about the front row of the gallery?
11 All right.

12 PROSPECTIVE JUROR: Two scenarios. As the
13 supervisor --

14 THE COURT: If you could keep the volume up.

15 PROSPECTIVE JUROR SINKEVICIUS: Okay. So as the
16 circulation manager at the library, DePaul, I was in charge of
17 student, student workers. So in that case, I would say over
18 the eight years, I've had to fire maybe two only because I
19 believed in retraining and working with the students if there
20 was an issue in time or performance.

21 I owned -- I was the owner and operator of S & S Kid
22 Express, which was a transportation company, from 2005 to
23 2010. And we specialized in taking south side kids to north
24 side schools. Over that period of time before I sold the
25 company, I think I had to fire about five, five or six

1 drivers.

2 THE COURT: All right. Let me just make sure then.
3 Going back to 2009, did you have any other job other than
4 owning that transportation services company and the CPS job?

5 PROSPECTIVE JUROR: The CPS job was actually 2010
6 until 2014.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR: But DePaul was 1999 to 2008.
9 During the time that I supervised at DePaul, I was still the
10 owner/operator of that company. In fact, DePaul featured me a
11 lot as an entrepreneur alumni of DePaul. So it was 2009 that
12 I still had the -- that I still owned and operated the
13 company.

14 THE COURT: All right. Got it. Okay. Thank you.
15 Anyone else in that first row? Mr. Busch?

16 PROSPECTIVE JUROR: Yes. So I have a student direct
17 report to my current role at HTC, one of whom has worked for
18 me for about a year and a half, the other who actually just
19 started today. I have hiring and firing authority over both
20 of those employees.

21 THE COURT: Okay. And then during your time
22 supervising the first one -- or have you ever had to fire
23 someone?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Okay. Thank you.

1 Anyone else in that first row?

2 PROSPECTIVE JUROR GIBSON: Not at the job I'm at now,
3 but I was senior administrative at a job where I was given
4 authority to fire administrative people. And I did. I may as
5 well be honest about it, it was more than five people that
6 their performance was not good. And I was given authority to
7 do exit interviews and to fire.

8 THE COURT: Okay. Was this at Sears?

9 PROSPECTIVE JUROR: Uh-huh, yup.

10 THE COURT: All right. Thank you.

11 In that last row, Mr. Bailey?

12 PROSPECTIVE JUROR: In my current position, I manage
13 an office. I have about ten full-time employees and 140
14 independent contractors that work for me. So I have hiring
15 and firing authority over all of them. They're still
16 independent contractors.

17 I probably will terminate between 10 and 15 a year.
18 Employees in the last five years, we probably terminated five.

19 THE COURT: All right. Thank you.

20 Anyone else in that second row?

21 Mr. Orsello -- I'm sorry. Do I have that right?

22 PROSPECTIVE JUROR: Yes, but this gentleman --

23 THE COURT: Okay. Mr. Hinkle.

24 PROSPECTIVE JUROR: Back in the late '90s, I was a
25 sous chef over three kitchens, so I had the authority to

1 recommend firing and do all the reviews for performance.

2 THE COURT: Did you ever have occasion to recommend
3 someone be fired?

4 PROSPECTIVE JUROR: Not to be fired. I had to write
5 them up because of performance behaviors, yes, but not the
6 firing.

7 THE COURT: Okay. So not as crazy as those reality
8 shows where --

9 PROSPECTIVE JUROR: Actually, it can be, yes.

10 THE COURT: All right.

11 Okay. Now Mr. Orsello.

12 PROSPECTIVE JUROR: I hire and fire. Our agency is
13 27 years old, so I've been in that position since then. And
14 over that time, probably about 12 to 15 individuals were
15 released because of performance.

16 THE COURT: Okay. Thank you.

17 Anyone else in that last row?

18 All right. Next question. Okay. And for this one,
19 if the answer is yes, we'll hear the answer at the sidebar in
20 private. Have you ever complained about or have you ever been
21 a subject of a complaint about sexual, racial, or national
22 origin harassment or discrimination in the workplace?

23 Okay. Anyone in the front row?

24 Okay. In the second row? Okay.

25 All right. Ms. Gapsevich, let's talk at the sidebar.

1 And before we turn it on, I want to apologize in advance,
2 you're going to hear probably the worst noise you've heard in
3 your lives. It's white noise so that you can't hear what
4 we're discussing. It's specifically designed to blast at you.
5 So I apologize in advance. We'll try to keep it as short as
6 we can.

7 Ms. Gapsevich?

8 (Proceedings heard at sidebar:)

9 THE COURT: If you can step up as close as you can.
10 This is a wireless microphone. Mr. Adams, can you stand a
11 little bit this way? Okay. I just want to see the court
12 reporter so that she looks at me, I know whether or not
13 Ms. Walsh can hear me.

14 Okay. Ms. Gapsevich, why don't you tell us.

15 PROSPECTIVE JUROR: It actually happened at two
16 different jobs. I never filed anything. The first one was a
17 gentleman at my job was touching, grabbed my rear end and
18 asking me out and stuff like that.

19 THE COURT: Which job was this?

20 PROSPECTIVE JUROR: This was a medical billing
21 company back in the -- my goodness, it had to be over 15 years
22 ago.

23 THE COURT: Okay. And was this a coworker?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Was the coworker -- let me back up. What

1 did you do for the medical billing company?

2 PROSPECTIVE JUROR: I did medical billing and talking
3 to doctors and patients and insurance companies.

4 THE COURT: And the coworker was someone who was a
5 supervisor or a colleague?

6 PROSPECTIVE JUROR: Colleague.

7 THE COURT: Okay. And you did not report this?

8 PROSPECTIVE JUROR: No.

9 THE COURT: And is there any particular reason you
10 decided not to report it?

11 PROSPECTIVE JUROR: I think I just didn't want to go
12 through the process of it. I just -- I don't know. I can
13 take care of myself. I don't know. I thought I could take
14 care of myself.

15 THE COURT: And what happened?

16 PROSPECTIVE JUROR: I told him to stop, and after a
17 while I just ignored him and it went away. And that was
18 before all that, I think, went into place with sexual where it
19 got more popular, I'd say more well-known. Because I had to
20 take classes. During the school, we had to take these classes
21 about sexual harassment.

22 THE COURT: But not back at this other company?

23 PROSPECTIVE JUROR: Right.

24 THE COURT: So is there anything about that
25 experience that will prevent you from being fair to either

1 side in this case?

2 PROSPECTIVE JUROR: No. It was my own personal
3 choice.

4 THE COURT: Okay. And you understand you have to
5 decide this case based on the evidence and facts you hear in
6 this trial, and each side gets a clean slate coming into it?

7 PROSPECTIVE JUROR: I agree, yes.

8 THE COURT: Can you tell us about the second
9 instance?

10 MR. RIORDAN: What was the activity or the conduct of
11 the person?

12 THE COURT: It was unwanted touching.

13 PROSPECTIVE JUROR: And verbal, kept asking me to go
14 out, sexual innuendos.

15 THE COURT: Okay. The second one?

16 PROSPECTIVE JUROR: Yes. That was actually the job I
17 worked before. Ameritech -- it was Illinois Bell at the time.
18 That was more racial. But it wasn't just against me. It was
19 against the white -- my white colleagues.

20 THE COURT: So what's the time period here?

21 PROSPECTIVE JUROR: It was -- it was '89, like '87 to
22 '89.

23 THE COURT: And what were you doing for Illinois
24 Bell?

25 PROSPECTIVE JUROR: I was a -- at that time, I was

1 in -- I was doing -- I was in the mail room at that time when
2 that happened sorting out mail for the whole business.

3 THE COURT: Okay. And so tell us what happened.

4 PROSPECTIVE JUROR: It was just comments made in
5 regards to our race. And we did go to management. They
6 didn't do anything. So it was just one of those things we
7 just left it alone, ignored it, and it went away.

8 THE COURT: So the comments were along racial
9 lines --

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: -- directed against whites?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: And were --

14 PROSPECTIVE JUROR: We were the minority in there.

15 THE COURT: I see. And the harassers were again
16 coworkers or supervisors?

17 PROSPECTIVE JUROR: Coworkers.

18 THE COURT: And you complained to supervisors?

19 PROSPECTIVE JUROR: Uh-huh.

20 THE COURT: And was there an investigation?

21 PROSPECTIVE JUROR: Not in the '80s.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR: I mean, it's true.

24 THE COURT: And these were comments?

25 PROSPECTIVE JUROR: They were comments, yes.

1 THE COURT: Okay. The same question.

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Is there anything about that experience
4 that would prevent you from being fair to either side?

5 PROSPECTIVE JUROR: No. Everyone has a right to
6 their opinion. I mean, no, no, not at all.

7 THE COURT: Okay. Any follow-up questions from the
8 plaintiff?

9 MR. ADAMS: No, sir.

10 THE COURT: Defense?

11 MR. RIORDAN: No.

12 THE COURT: Thank you. You can go back.

13 Just give her a minute to get back.

14 Judy, you can hear us?

15 (Proceedings heard in open court:)

16 THE COURT: All right. Anyone else in the second
17 row?

18 All right. Back to the first row. Ms. Devito, was
19 it?

20 PROSPECTIVE JUROR: I'm not sure, but --

21 THE COURT: That's fine. Come on over.

22 (Proceedings heard at sidebar:)

23 PROSPECTIVE JUROR: I'm not sure if this was it, but
24 I was involved in an EEOC claim as the employer. We
25 terminated a person. And he said we terminated him because he

1 had HIV. But he was involved in a car accident that was like
2 unauthorized taking the vehicle and wrecked it. And so we did
3 like a phone thing, I remember. I didn't appear. I was just
4 on the phone.

5 THE COURT: All right. So this was at Clearbrook?

6 PROSPECTIVE JUROR: No, this was actually at Victor
7 C. Newman. It was in the '80s. It was like late '80s
8 probably. It was another agency in Chicago. It was called
9 Victor C. Newman.

10 THE COURT: Okay. And were you the one who had
11 decided to -- well, had he been terminated?

12 PROSPECTIVE JUROR: He had been terminated for that.

13 THE COURT: For the car?

14 PROSPECTIVE JUROR: For the car thing. And then he
15 filed a claim saying that we fired him because he had HIV.

16 THE COURT: Okay. And were you the one who decided
17 to fire him?

18 PROSPECTIVE JUROR: I was part of -- yes, I was part
19 of that decision.

20 THE COURT: Okay. And then after he filed the
21 allegation, what happened to the situation?

22 PROSPECTIVE JUROR: Well, then there was like a --
23 there was a hearing, right. I mean, I think it was the EEOC.
24 There was a hearing. And then we -- he said his stuff and
25 then we said our stuff. And then he didn't ever -- you know

1 what, I think we settled like a small amount to him.

2 THE COURT: Okay. Did it ever get to the point of a
3 lawsuit, do you remember?

4 PROSPECTIVE JUROR: That's all -- that's all I
5 remember. I think we just settled. I mean, it was so long
6 ago. That's why I didn't even remember, but yeah.

7 THE COURT: Is there anything about that experience
8 that would prevent you from being fair to either side in this
9 case?

10 PROSPECTIVE JUROR: I don't think so.

11 THE COURT: Okay. And I want to make sure because in
12 black and white paper, it's going to say, "I don't think so."
13 But I want to make sure that you're confident --

14 PROSPECTIVE JUROR: Oh, okay.

15 THE COURT: -- if you are that that experience will
16 not influence you in this case and that you can decide this
17 case based on the evidence that you hear in the courtroom
18 here.

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Any follow-up questions from the
21 plaintiff?

22 MR. ADAMS: No, Judge.

23 MS. KORN: No.

24 THE COURT: From the defense?

25 MR. RIORDAN: No.

1 THE COURT: Okay. Thank you.

2 (Proceedings heard in open court:)

3 THE COURT: All right. Let me just check again. The
4 second row?

5 All right. Now the front row of the gallery.

6 And then the second row -- oh, I'm sorry. I still
7 won't be able to pronounce your last name.

8 PROSPECTIVE JUROR: It's Sinkevicius. It's like
9 "sending cabbages" but with a V.

10 (Proceedings heard at sidebar:)

11 THE COURT: All right. Can you tell us about it?

12 PROSPECTIVE JUROR: I filed a claim of religious
13 discrimination against an employer --

14 THE COURT: All right.

15 PROSPECTIVE JUROR: -- for religious intolerance.

16 THE COURT: And can you tell us first when?

17 PROSPECTIVE JUROR: 2007.

18 THE COURT: 2007?

19 PROSPECTIVE JUROR: 2006, 2007.

20 THE COURT: Okay. And was it DePaul then?

21 PROSPECTIVE JUROR: It was DePaul.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR: Ascension University.

24 THE COURT: Okay. So tell us what the claim was.

25 PROSPECTIVE JUROR: The claim was the supervisors

1 didn't recognize my religious observances as holidays for my
2 beliefs, only Christmas and Easter. And I don't celebrate
3 those holidays.

4 So there was an issue with the requests that I would
5 make to attend district and international conventions and just
6 certain days I would need to leave early in order to attend
7 religious observances at my Kingdom Hall. So that was an
8 issue that I filed a grievance against.

9 THE COURT: Okay. And did you first take it up with
10 your supervisors?

11 PROSPECTIVE JUROR: I did. And then I progressed to
12 the office of diversity and then -- not EEOC. There's
13 another --

14 THE COURT: Is it a State agency?

15 PROSPECTIVE JUROR: It is a state.

16 THE COURT: The Department of Human Rights?

17 PROSPECTIVE JUROR: No, it's with the city.

18 THE COURT: The City Council of Human Relations?

19 PROSPECTIVE JUROR: Yes. But I think I also did
20 later proceed with the EEOC.

21 THE COURT: So after you filed the charges, what
22 happened?

23 PROSPECTIVE JUROR: DePaul gave me a letter and said
24 they didn't think I was part of the team and asked -- and I
25 was let go.

1 THE COURT: I see. So you were discharged?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: And then what happened to the charges
4 themselves?

5 PROSPECTIVE JUROR: They were -- they were found
6 unsubstantiated. They didn't have enough evidence to proceed
7 with a suit against or claim against DePaul.

8 THE COURT: All right. So you didn't file a lawsuit
9 at that point?

10 PROSPECTIVE JUROR: I tried but that was also
11 dismissed. I hired an attorney.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR: And that was also dismissed.
14 DePaul has a lot of lawyers and judges.

15 THE COURT: So you hired an attorney and you filed a
16 lawsuit. And was it a federal lawsuit, do you remember?

17 PROSPECTIVE JUROR: Let me see. I'm sorry. I'm
18 confusing two issues. Part of it was an issue with the
19 Personnel Records Review Act because they refused to release
20 information about what was in my employee file. So that ended
21 up actually being the reason that I hired an attorney because
22 they wouldn't give me --

23 THE COURT: Okay.

24 PROSPECTIVE JUROR: -- my file.

25 THE COURT: All right.

1 PROSPECTIVE JUROR: But the issue with the religion,
2 no, I did not hire an attorney to deal with that.

3 THE COURT: Okay. And did you file a lawsuit on the
4 religious discrimination?

5 PROSPECTIVE JUROR: No. Once it was dismissed with
6 the local agencies, I didn't pursue it.

7 THE COURT: Okay. And then on the Personnel Records
8 Review Act case?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: That case was dismissed by a judge?

11 PROSPECTIVE JUROR: That case was dismissed by a
12 judge.

13 THE COURT: All right. And then ultimately DePaul
14 then discharged you?

15 PROSPECTIVE JUROR: DePaul then discharged me shortly
16 after.

17 THE COURT: All right. And do you believe that
18 the -- that DePaul was retaliating against you for filing the
19 charges?

20 PROSPECTIVE JUROR: I believe that and my attorney
21 believed that, but everything got dismissed.

22 THE COURT: And you didn't file a lawsuit obviously
23 over that?

24 PROSPECTIVE JUROR: I didn't appeal. You know, I
25 pick my battles. And I just decided I didn't want to pursue

1 that course. So I became a teacher.

2 THE COURT: Okay. So having gone through this
3 experience, do you -- do you believe you can be fair to both
4 sides in this case?

5 PROSPECTIVE JUROR: I can because I've been on both
6 sides. I've been on the side of an employer, and I've been on
7 the side as an employee. But that sort of discrimination is
8 so precise that I can't really relate to a person that has
9 experienced other kinds of harassments but --

10 THE COURT: I mean, so you're saying --

11 PROSPECTIVE JUROR: Like sexual harassment or
12 something like that. I have not experienced that before.

13 THE COURT: All right.

14 PROSPECTIVE JUROR: But retaliation because I brought
15 up an issue, I have experienced that. But I've also had
16 employees take me to court because they felt that their reason
17 for being fired was not --

18 THE COURT: Right. You know what, I'm going to --
19 stay right here. I'm going to admonish the jurors.

20 (Proceedings heard in open court:)

21 THE COURT: Ladies and gentlemen, I know the white
22 noise is terrible but if I could ask you to not -- can you
23 shut it off? Okay. I guess that worked really well.

24 So if you could refrain from talking to one another
25 right now because -- it's picking up on the mike sound, so if

1 you could just refrain from doing that.

2 Let's get the sidebar back on.

3 (Proceedings heard at sidebar:)

4 THE COURT: Okay. Let me backtrack now. So you've
5 had instances in which employees have alleged that you've
6 engaged in discrimination?

7 PROSPECTIVE JUROR: Well, not so much discrimination
8 as an issue with labor disputes and pay but not really
9 discrimination.

10 THE COURT: Okay. So that --

11 PROSPECTIVE JUROR: One was very far-reaching but he
12 let that go, so it just turned out to be an issue.

13 THE COURT: Is this the transportation services
14 company?

15 PROSPECTIVE JUROR: This is the transportation
16 services company.

17 THE COURT: And so some employees there had alleged
18 that they weren't getting paid what they were supposed to get
19 paid?

20 PROSPECTIVE JUROR: Right, but they -- you know,
21 there was an issue that they hadn't showed up for work. And I
22 don't pay people that didn't come to work. So that was an
23 issue.

24 THE COURT: Were you ever taken to court on that?

25 PROSPECTIVE JUROR: Just to the labor department.

1 One case I did lose, one case I won.

2 THE COURT: So was it a state or federal labor
3 department, do you remember?

4 PROSPECTIVE JUROR: It was the Illinois Labor
5 Department.

6 THE COURT: Sure. And so then did they do an
7 investigation?

8 PROSPECTIVE JUROR: They did do an investigation.

9 THE COURT: Okay. And then ultimately they ordered
10 you to pay?

11 PROSPECTIVE JUROR: Well, actually I had a contract
12 with the drivers, but they thought that the verbiage in the
13 contract didn't cover the issue that the employee was bringing
14 up, so I lost that one. And the other one, I didn't lose.

15 THE COURT: All right. Any other instances in which
16 you've been -- either you've alleged harassment or
17 discrimination or the other way around?

18 PROSPECTIVE JUROR: Not that I -- mainly it was
19 religious. It was religious. I mean, other things came up
20 during the discussion like vague things like privileges. But
21 it's been a while, so I can't say that I really remember if
22 there was more, I mean, because the Personnel Records Review
23 Act, that almost went out of my head because I had forgotten
24 that that was connected, the case.

25 THE COURT: So now one thing that's also important

1 aside from deciding this case, the facts of this case based on
2 the evidence in this, that you hear in this courtroom is to be
3 able to apply the law that I give you.

4 And so to the extent you learned anything about
5 employment law, can you set that aside and follow the
6 instructions of law that I give you?

7 PROSPECTIVE JUROR: I can do that. I'm not
8 interested in employment law, but I can follow the
9 instructions about it.

10 THE COURT: Okay. I'm asking, you no doubt had
11 spoken to your attorney about various, you know, employment
12 law principles.

13 PROSPECTIVE JUROR: Sure, uh-huh.

14 THE COURT: But you can set that aside?

15 PROSPECTIVE JUROR: I can do that. I'm objective.

16 THE COURT: And then back to the facts, I want to
17 make sure that for both sides you are confident that you can
18 find facts based on the evidence you hear in this case.

19 PROSPECTIVE JUROR: Absolutely.

20 THE COURT: Okay. Follow-up questions from the
21 plaintiff?

22 MR. ADAMS: No, sir.

23 THE COURT: From the defense?

24 MR. RIORDAN: This is your own business when the
25 claims were made?

1 PROSPECTIVE JUROR: About the wages, uh-huh.

2 THE COURT: Anything else?

3 Okay. You can step back. Thanks.

4 (Proceedings heard in open court:)

5 THE COURT: Okay. Anyone else in the front row?

6 And then the second row of the galley. Okay.

7 Next question, again, this time there's no need to
8 repeat an answer if you've already told us, but if you
9 haven't, please raise your hand and we'll talk. Have you ever
10 held a job position in human resources that you haven't
11 mentioned yet?

12 Okay. Ms. Gibson. Let's get the microphone.

13 PROSPECTIVE JUROR: That was the job I had when I was
14 in senior administrative. I was in human resources for five
15 years.

16 THE COURT: I see. Thank you.

17 Okay. Anyone else who has not mentioned a human
18 resources job that they've held?

19 Okay. Have you ever held a job in the electronic
20 component manufacturing business that you have not already
21 mentioned?

22 Okay. No hands there.

23 Have you ever been a party to a lawsuit? And again,
24 if we've talked about this whether in public or at the
25 sidebar, no need to mention it again but I'd like to know,

1 have you ever been a party to a lawsuit either as someone who
2 filed a case or someone who was sued? Anyone in the front
3 row?

4 Okay. The second row? All right. Ms. Gapsevich,
5 let's get the microphone over there unless you want to talk at
6 the sidebar.

7 PROSPECTIVE JUROR: Oh, no, it's fine.

8 THE COURT: If you could send the microphone over
9 there.

10 PROSPECTIVE JUROR: And I don't know if this
11 counts --

12 THE COURT: Could you stand, please? It will help
13 with the projection.

14 PROSPECTIVE JUROR: Sure. I'm currently, my second
15 job is at Applebee's. And it's new owners. And we kind of
16 have -- I guess it's a whole group lawsuit going on right now
17 because us servers were paid only 4.95 an hour while not doing
18 serving, the serving title but doing side work.

19 So that's still going on right now. I don't know if
20 that's what you need to know.

21 THE COURT: Okay. So it's a class action --

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: -- or maybe a collective action where the
24 allegation is that you're not getting minimum wage?

25 PROSPECTIVE JUROR: Right. They were paying us the

1 server salary instead of minimum wage.

2 THE COURT: Okay. And then have you had any
3 interview for this case at all?

4 PROSPECTIVE JUROR: No.

5 THE COURT: So you received a notice?

6 PROSPECTIVE JUROR: Right. And I signed that I was
7 going along with it.

8 THE COURT: All right. Got it. And so you haven't
9 been interviewed or otherwise had any other contact with the
10 case other than signing the opt-in notice?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: Okay. Is there anything about that
13 experience that would prevent you from being fair to either
14 side in this case?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Okay. Anyone else in the second row?

17 PROSPECTIVE JUROR MacDONALD: Can you repeat the
18 question, please?

19 THE COURT: Sure. The question was, have you ever
20 been a party to a lawsuit either as someone who filed a case
21 or someone who was sued. And again, I'm happy to talk at a
22 sidebar if you need to.

23 PROSPECTIVE JUROR MacDONALD: It's okay. Does small
24 claims count?

25 THE COURT: Okay. Yes, it does. All right. What's

1 the situation?

2 PROSPECTIVE JUROR: A framer went out of business. I
3 knew a thing or two about incorporation and filing properly.
4 And she had not filed. She owed me \$2,000. And I noticed she
5 was -- she let her corporation expire, therefore, she was
6 personally responsible and went after her on a technicality.

7 THE COURT: Okay. And how long --

8 PROSPECTIVE JUROR: The technicality for 2,000 bucks.

9 THE COURT: And how long ago was this?

10 PROSPECTIVE JUROR: Four years ago.

11 THE COURT: And how did the case end?

12 PROSPECTIVE JUROR: To be perfectly honest, I believe
13 it was -- I lost but I believe it was kind of a -- I thought
14 it was personal, a little bit personal.

15 THE COURT: Did you represent yourself?

16 PROSPECTIVE JUROR: Yes, I did.

17 THE COURT: And she represented herself?

18 PROSPECTIVE JUROR: I wore a suit, respected the
19 court. I showed up. She -- the plaintiff, she was -- the
20 defendant, that is, she was complaining and yelling and
21 screaming. It was just unbelievable.

22 And I'm thinking, no, I'm in court and I'm not
23 supposed to do that. And it was, for being respectful and
24 not, you know, defending myself and stuff, you know, I was --
25 I felt like, you know, I couldn't get it all out but --

1 THE COURT: Let me make sure. So you were the one
2 who brought the lawsuit?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: And then you --

5 PROSPECTIVE JUROR: I had real evidence, like here is
6 paperwork, here is this, here is that.

7 THE COURT: And then the judge found against you?

8 PROSPECTIVE JUROR: Yeah. And she just had, "My
9 friend said this and my friend said that." And her friend
10 wasn't in court to testify and stuff like that.

11 THE COURT: All right. Is there anything about that
12 experience that would prevent you from being fair to either
13 side in this case?

14 PROSPECTIVE JUROR: Not at all.

15 THE COURT: All right. Any other situations where
16 you've been a party to a lawsuit?

17 PROSPECTIVE JUROR: No.

18 THE COURT: All right. Very good.

19 Anyone else in the second row? Okay. Back to the
20 first row.

21 PROSPECTIVE JUROR: Actually, I don't know if this
22 would count, but 20 years ago we had an auto accident, and we
23 did get some money off of it but it never went to court.

24 THE COURT: You never filed a lawsuit?

25 PROSPECTIVE JUROR: Well, actually, we had an

1 attorney. So I don't know what really happened with it. I
2 mean, it never went to court. We did get something but it
3 wasn't -- I don't even really remember what happened with it,
4 to be honest.

5 THE COURT: Okay. Anything about that experience
6 that would prevent you from being fair here?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Okay. First row of the gallery, party to
9 a lawsuit that we have not heard of?

10 All right. Second row? Okay. Mr. Hinkle?

11 PROSPECTIVE JUROR: Workman's comp.

12 THE COURT: All right. How long ago was this?

13 PROSPECTIVE JUROR: Seven years ago.

14 THE COURT: Okay. And did you actually have to file
15 a lawsuit?

16 PROSPECTIVE JUROR: I did.

17 THE COURT: You hired an attorney?

18 PROSPECTIVE JUROR: I did.

19 THE COURT: Okay. What was the end result?

20 PROSPECTIVE JUROR: I won.

21 THE COURT: Okay. Did you have to testify?

22 PROSPECTIVE JUROR: I did.

23 THE COURT: All right. Is there anything about that
24 experience that would prevent you from being fair to either
25 side in this case?

1 PROSPECTIVE JUROR: Not at all.

2 THE COURT: All right. Thanks, Mr. Hinkle.

3 Anyone else in that last row?

4 Okay. Next question, have you ever served on a jury,
5 anyone in the first row? Actually served on a jury, not
6 called for jury selection but actually served on a jury, heard
7 evidence.

8 Second row? Okay. Ms. Gapsevich. Let's get the
9 microphone. That's fine.

10 All right. Okay. How long ago was this?

11 PROSPECTIVE JUROR: Back in 1989, I served at the
12 Markham courthouse on an attempted arson, murder, and robbery
13 case.

14 THE COURT: I was going to ask you how you remembered
15 it, but now I understand why. All right. Without telling me
16 the verdict, did the jury reach a verdict?

17 PROSPECTIVE JUROR: Yes, we did.

18 THE COURT: Did you happen to serve as the
19 foreperson?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Any other trials, any other trial you
22 served on?

23 PROSPECTIVE JUROR: No.

24 THE COURT: All right. Anyone else in the second
25 row?

1 Ms. Perfetti?

2 PROSPECTIVE JUROR: Yes. Yeah, it's probably been
3 about 10, 15 years ago. And it was just two insurance
4 companies trying to fight it out and come to a dollar amount.
5 That was it.

6 THE COURT: Okay. And do you remember, was that in
7 this building or in state court?

8 PROSPECTIVE JUROR: No, no, no, it was in the
9 suburbs. I can't even remember where it was exactly.

10 THE COURT: Okay. And did your -- without telling me
11 the verdict that you reached, did you reach a verdict?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: And did you happen to serve as the
14 foreperson?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Okay. Any other times?

17 PROSPECTIVE JUROR: That was it.

18 THE COURT: All right. First row of the gallery?
19 And then the second row of the gallery?

20 All right. Next question, this trial is scheduled to
21 be completed this Friday, December 19. Keeping in mind the
22 importance of jury duty, is there anything in your schedule
23 that would make it impossible for you to serve on this jury?
24 Anyone in the front row?

25 Okay. The second row? All right. Ms. Slone? All

1 right. Do you want to talk on the side?

2 PROSPECTIVE JUROR: No, that's fine. I'm just home
3 for a very short period of time for my Christmas break, and I
4 have a lot of appointments, doctor appointments. I have a
5 grad school visit on Wednesday, stuff like that that I can't
6 reschedule that I don't have time to do next semester.

7 THE COURT: Okay. I'll tell you what. Let's talk at
8 a sidebar for a minute.

9 (Proceedings heard at sidebar:)

10 THE COURT: Okay. Step up. We can pick you up on
11 the wireless. So I don't want to be intrusive. So the doctor
12 appointments, are they ones that you can't get medical care
13 for at school?

14 PROSPECTIVE JUROR: No. It's an eye appointment, a
15 dentist appointment, things that I scheduled over six months
16 ago. And I have a grad school visit this Wednesday. And I
17 need to make my decision by January 10.

18 THE COURT: I see. So your optometrist and your
19 dentist --

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: -- are still here --

22 PROSPECTIVE JUROR: Uh-huh.

23 THE COURT: -- in Illinois?

24 PROSPECTIVE JUROR: And the grad school I'm visiting
25 is here.

1 THE COURT: Okay. Any follow-up questions from the
2 plaintiff?

3 MR. ADAMS: No.

4 THE COURT: All right. You have to speak a little
5 louder.

6 MR. ADAMS: No.

7 THE COURT: Okay. For the defense?

8 MS. CARPENTER: No, Judge.

9 THE COURT: Thanks. You can have a seat. Let's just
10 stay here in case there's other scheduling things.

11 (Proceedings heard in open court:)

12 THE COURT: Okay. Anyone else in the -- all right.
13 Mr. Perez.

14 (Proceedings heard at sidebar:)

15 THE COURT: All right. Speak into the mike as much
16 as you can. All right. What's going on?

17 PROSPECTIVE JUROR: Today I think was just my last
18 make-up day to come for jury duty. I'm currently unemployed.
19 I'm trying to schedule interviews. The last two weeks that
20 I've been having to call to see if I was summoned for jury
21 duty was creating some type of bottleneck, some complications
22 at home with me and looking for work and setting up some
23 interviews with my headhunters and all that.

24 THE COURT: Okay. So this should be the second week
25 of your two-week period.

1 PROSPECTIVE JUROR: No.

2 THE COURT: We don't have three-week periods.

3 PROSPECTIVE JUROR: There was a two-week period. I
4 was scheduled to come in on, I believe it was, last Monday or
5 Tuesday. My car broke down on the highway. This was my
6 make-day. But my last day was supposed to be on Friday.

7 THE COURT: I see. Do you have interviews set up
8 right now?

9 PROSPECTIVE JUROR: As of right now, I'm waiting on
10 my headhunter. I'm currently searching for employment and
11 posting resumés and all that.

12 THE COURT: Okay. Any follow-up questions from the
13 plaintiff?

14 MR. ADAMS: No.

15 THE COURT: Defense?

16 MS. CARPENTER: No.

17 THE COURT: Okay. Thank you.

18 (Proceedings heard in open court:)

19 THE COURT: Okay. How about the front row of the --
20 Ms. Gapsevich.

21 (Proceedings heard at sidebar:)

22 THE COURT: You know the drill.

23 PROSPECTIVE JUROR: I guess my question is, I'm a
24 single mom. I work two jobs. Actually my 11-year-olds are
25 home sick alone today because I had to come here. And I had

1 this -- I'm in the same predicament I've been in the last
2 eight years I've been on my own.

3 My question is, I know it's the best time to do this
4 because I hope that I'll be done by 5:00, I could probably get
5 called again and then have to deal with the same situation,
6 wouldn't I?

7 THE COURT: Are your 11-year-olds on winter break
8 this week?

9 PROSPECTIVE JUROR: Next week.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR: I just don't want to -- I've
12 written a hardship letter the last two years but I'm still in
13 the same situation. I just don't want to get put back in the
14 pool and get called over summer and then I have to find a
15 sitter for two weeks.

16 THE COURT: The school district that you work for --

17 PROSPECTIVE JUROR: Yes. They go to that same
18 school.

19 THE COURT: Okay. And do they-- when does their
20 break start?

21 PROSPECTIVE JUROR: My break will start next Monday.

22 THE COURT: Do you work at the school during the
23 summer?

24 PROSPECTIVE JUROR: No. I'm off over the summer, but
25 I do work at the restaurant and I pick up more hours.

1 THE COURT: I see. And then does the restaurant pay
2 you your regular salary or only the jury salary, do you know?

3 PROSPECTIVE JUROR: Honest to goodness, probably
4 nothing.

5 THE COURT: Either you take the compensation from the
6 court --

7 PROSPECTIVE JUROR: Oh, I didn't know that.

8 THE COURT: There's a \$40 compensation per day.

9 PROSPECTIVE JUROR: And then you know what, if it's
10 going to be done by Friday, I'm just going to --

11 THE COURT: I do -- so who would take care of your
12 children if we go to 4:30 and you live in Joliet?

13 PROSPECTIVE JUROR: Joliet. I'm not going to get
14 home until 6:30. That's the thing -- would I know today if
15 I'm getting picked so I could make arrangements?

16 THE COURT: You would know. But do you have family
17 in the area?

18 PROSPECTIVE JUROR: No, but I have some friends and
19 neighbors that I could --

20 THE COURT: Okay. Any follow-up questions?

21 MR. ADAMS: Just to follow on that point, there are
22 resources that you have that you can turn to so that your
23 children are not totally --

24 PROSPECTIVE JUROR: If those resources say yes.

25 THE COURT: Anything further from the defense?

1 MS. CARPENTER: No, Judge.

2 THE COURT: Okay. You can sit back down.

3 (Juror dismissed from sidebar.)

4 THE COURT: So I just want to make sure you
5 understand, if you wanted more follow-up with Ms. Gapsevich, I
6 intend to let her go. So do you have any problem with that?

7 MR. HALL: No.

8 MS. CARPENTER: No.

9 THE COURT: I just want to make sure, you were
10 thinking, no, he's going to keep him so I'm not going to
11 follow up. That's fine.

12 (Proceedings heard in open court:)

13 THE COURT: Is there anyone else in the gallery?
14 Okay. Mr. Orsello?

15 PROSPECTIVE JUROR: Just a question. What time does
16 the court usually end its day?

17 THE COURT: Today? About 4:30.

18 PROSPECTIVE JUROR: Pardon?

19 THE COURT: 4:30.

20 (Proceedings heard at sidebar:)

21 THE COURT: Step a little closer. Go ahead.

22 PROSPECTIVE JUROR: I have a -- we have a major
23 contract with the State. And I have a 4:00 phone conference
24 on that on Tuesday. And then we're working on proposals which
25 are due on Friday. And I can do that after -- that's why I

1 said 4:00 would be fine.

2 THE COURT: So really the hard conflict is 4:00
3 tomorrow.

4 PROSPECTIVE JUROR: Is the contract, yes.

5 THE COURT: Yes, a 4:00 phone conference tomorrow
6 with the State.

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Okay. You know, there are times when I
9 will take breaks at specific moments in order to allow a juror
10 to take something which otherwise would conflict them out of
11 the case. This sounds like something I might be able to do
12 depending on how speedily we're moving along.

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Okay. Follow-up questions from the
15 plaintiff?

16 MR. ADAMS: No, sir.

17 THE COURT: Defense?

18 MS. CARPENTER: No.

19 THE COURT: Okay. Thanks for bringing that to my
20 attention.

21 (Proceedings heard in open court:)

22 THE COURT: Okay. Ms. Sinkevicius?

23 PROSPECTIVE JUROR: Actually, I just wanted to know
24 like what time lunch is, how long is it, and are we allowed to
25 leave the building.

1 THE COURT: Why don't you come up.

2 PROSPECTIVE JUROR: Okay. Sorry.

3 (Proceedings heard at sidebar:)

4 PROSPECTIVE JUROR: I was just curious about lunch.

5 THE COURT: I'm sorry. Was there some religious
6 observation?

7 PROSPECTIVE JUROR: No. That's why it's just a
8 general question.

9 THE COURT: Generally, we take lunch at around noon,
10 and then we break for an hour and 15 minutes or so.

11 PROSPECTIVE JUROR: Okay. And are you allowed to
12 leave the building during that time?

13 THE COURT: Yes. It's just a matter of making sure
14 you get back through the security line in time, so you have to
15 budget some time.

16 PROSPECTIVE JUROR: There's not an express lane for
17 jurors to go in?

18 THE COURT: No. Sorry.

19 PROSPECTIVE JUROR: Okay. Thank you.

20 THE COURT: I think that's it, so let's head back to
21 our seats.

22 (Proceedings heard in open court:)

23 THE COURT: Okay. The last question, is there
24 anything else that we haven't talked about that could prevent
25 you from being fair and impartial in deciding this case?

1 Okay. So seeing no hands, I've been pushing this a
2 bit, ladies and gentlemen, instead of having a break because
3 what I'd like to try to do is we're going to take -- we're
4 going to take 30 minutes so that I can speak with the lawyers.
5 And then I'm going to ask you to come back here at 12:15 but
6 wait outside. The courtroom doors are closed. Wait outside.
7 We'll bring you in.

8 When you come back in, you can sit in the gallery on
9 that side. And then I'll be able to tell you who is actually
10 on the jury. And that way we'll know before lunch. Okay.
11 And then whoever is picked for the jury, we will break for
12 lunch and you can have your lunch break.

13 Before I do that, I want to see the lawyers one last
14 time at the sidebar.

15 (Proceedings heard at sidebar:)

16 THE COURT: Any follow-up questions for the
17 plaintiff?

18 MR. ADAMS: No.

19 THE COURT: Any particular for the defense?

20 All right. So we'll take like 30 minutes, and then
21 we'll do for cause and then peremptories. And then we'll come
22 back, we'll seat the jury, and we'll all have lunch. All
23 right.

24 (Proceedings heard in open court:)

25 THE COURT: Okay. Before I let you go for this 30

1 minutes, I do want to give you some instructions. Don't
2 discuss the case with anyone, even your fellow jurors and even
3 though you haven't been selected yet. It's very important
4 that you just don't discuss the case at all.

5 If you're picked for the jury, I'm going to give that
6 very same instruction because really you have to keep an open
7 mind until the very end of the trial. So if you start talking
8 to one another about the case, you start forming impressions.
9 We try to prevent that. All right. So don't talk about the
10 case with anyone else including your fellow jurors.

11 Also, if someone tries to approach you and speak to
12 you about it, don't let them talk to you. Bring that to my
13 attention.

14 If you're going to leave this floor, please take the
15 north bank of elevators. It's the bank of elevators that is
16 closest to this courtroom. I'm going to ask the lawyers and
17 the parties to take the south bank of elevators if in our 30
18 minutes we have time for a quick break.

19 The reason for that, ladies and gentlemen, is that
20 you should have no contact, you know, any communication with
21 the lawyers and the parties in the case or any witnesses. And
22 so I'm going to try to keep you separated.

23 If you happen to see one of the lawyers or the
24 parties or the witnesses, they're going to ignore you. And
25 it's not because they're unfriendly. It's because they're

1 following my instruction to not communicate with you in any
2 way -- bless you -- in any way whatsoever. So bear that in
3 mind as well.

4 Okay. So I will see you back, and we'll now call it
5 12:20. And I'll be able to tell you who is on the jury. All
6 rise.

7 (Proceedings heard in open court. Prospective jurors out.)

8 THE COURT: Okay. Please be seated.

9 For cause challenges?

10 MR. ADAMS: Judge, I wonder if we could take a very
11 short period of time to talk among ourselves.

12 THE COURT: This is the for cause challenges, not the
13 peremptories.

14 MR. ADAMS: Understood. So still I think I'd
15 appreciate a couple minutes.

16 THE COURT: Take five minutes.

17 MS. KORN: Thank you.

18 (Recess.)

19 THE COURT: Let's take the for cause challenges.

20 MR. ADAMS: Judge, the plaintiff challenges for cause
21 Mr. Perez.

22 THE COURT: I'll tell you what, we're just going to
23 go one by one and put it on the record. So No. 1, any for
24 cause challenge?

25 MR. ADAMS: No for cause challenge.

1 THE COURT: Defense?

2 MS. CARPENTER: No.

3 THE COURT: No. 2?

4 MR. ADAMS: No.

5 THE COURT: Defense?

6 MS. CARPENTER: No.

7 THE COURT: No. 3, Ms. Voll?

8 MR. ADAMS: No.

9 THE COURT: Defense?

10 MS. CARPENTER: No.

11 THE COURT: No. 4, Ms. Rodriguez?

12 MR. ADAMS: No.

13 MS. CARPENTER: No.

14 THE COURT: No. 5, Mr. Perez?

15 MR. ADAMS: Yes.

16 THE COURT: Okay. What's the basis?

17 MR. ADAMS: Judge, the basis is the comments that he
18 made to the Court at sidebar regarding his unemployment
19 circumstance and his trying to use this time to line up
20 interviews and find substitute work.

21 THE COURT: Okay. Any --

22 MR. ADAMS: Our concern is that he would be a
23 distracted juror.

24 THE COURT: Any objection from the defense of letting
25 him go on hardship?

1 MR. RIORDAN: I think so, your Honor.

2 THE COURT: Okay.

3 MS. CARPENTER: Yes, Judge. We do object. We don't
4 think that that's for cause, his personal circumstances. He
5 didn't indicate to you that he had an interview lined up. He
6 was just waiting to see if his headhunter had gotten an
7 interview.

8 THE COURT: The plaintiff's objection is denied. He
9 does not have anything set up. It sounds like unfortunately
10 he missed another week that he was supposed to report for jury
11 duty, and it may not have been his fault. But I guess the
12 bottom line point is that he is available this week and so,
13 therefore, the objection is overruled.

14 Okay. No. 6, Ms. Devito.

15 MR. ADAMS: No.

16 MS. CARPENTER: No.

17 THE COURT: 7, Mr. Michael?

18 MR. ADAMS: No.

19 MS. CARPENTER: No.

20 THE COURT: 8. All right. That's Ms. Gapsevich. I
21 think by agreement, we're letting her go because of her
22 scheduling issues. Is that correct?

23 MR. ADAMS: That's my understanding, Judge. We have
24 no objection to that.

25 THE COURT: Right.

1 MS. CARPENTER: Judge, I have no -- well, it seemed
2 to me that she wanted to stay now because perhaps she didn't
3 know that there was a stipend, and also she thought she could
4 get someone to take care of her kids now easier than she could
5 in the summer. So it would seem to me she actually doesn't
6 mind staying.

7 MR. ADAMS: For whatever it's worth, Judge, that was
8 my impression, too. I thought that she -- not that she's
9 dismissive of the service, that she wants to get this out of
10 the way now while she can.

11 THE COURT: Let me put it this way. If I excuse her,
12 it's -- there's no guarantee that she will have to come back
13 in the summer or any time soon. She just goes back into the
14 pool because she has shown up for jury service and she is
15 being excused.

16 Second, we're not sure that she can get someone else
17 to fill in and take care of her children when she's not there.
18 She said, her response ultimately was if they say yes to
19 coming in to help her.

20 And then her twins are also ill today. So it's
21 possible they'll be ill tomorrow which would make it also less
22 likely that someone is going to help her out. We're also
23 going to one-week trial systems next service -- next year. So
24 it may all be more manageable for her if she's even called
25 back.

1 So what I'm doing is, if either of you are
2 backtracking on your agreement to excuse her, that's fine.
3 I'm going to excuse her for hardship.

4 Okay. No. 9, Ms. Gutierrez?

5 MR. ADAMS: No.

6 MS. CARPENTER: No.

7 THE COURT: No. 10, Mr. MacDonald?

8 MR. ADAMS: No.

9 MS. CARPENTER: No.

10 THE COURT: No. 11, Mr. Delgado?

11 MR. ADAMS: No.

12 MS. CARPENTER: No.

13 THE COURT: No. 12, Ms. Perfetti?

14 MR. ADAMS: No.

15 MS. CARPENTER: No.

16 THE COURT: No. 13, Mr. Schifler?

17 MR. ADAMS: No.

18 MS. CARPENTER: Yes.

19 THE COURT: Okay.

20 MS. CARPENTER: Judge, his comment was that he
21 doesn't believe in firing.

22 THE COURT: Yes, I think that was, he made that in
23 the context of he seeks to retrain employees and that -- so
24 it's true, he has not fired for performance. That's in his
25 own job. I don't think there's any reason to believe that he

1 would not be fair in this case, so that's overruled.

2 Okay. 14, Ms. Slone?

3 MR. ADAMS: No.

4 MS. CARPENTER: Judge, we don't have any more for
5 cause challenges for the remainder of the --

6 THE COURT: How about the plaintiff?

7 MR. ADAMS: Nor do we, Judge.

8 THE COURT: All right. So that takes care of that.
9 Thank you. Actually, let me just make sure there's no other
10 sui sponte scheduling issues.

11 No one else raised a scheduling issue.

12 Okay. So now take 15 minutes. At 12:15, let me know
13 what your peremptories are. Just hand up a piece of paper
14 with the three peremptories. And just bear in mind that
15 because we're going to seat eight and you have six
16 peremptories, I do not strike anyone beyond No. 16, right,
17 because we can't -- we're not going to get to them.

18 MS. CARPENTER: Or 17, right?

19 THE COURT: Actually, so we've excused Ms. Gapsevich.

20 MS. CARPENTER: Right.

21 THE COURT: And that's it, right?

22 MS. CARPENTER: Yes. So I think you can go to 17.

23 THE COURT: No. It's eight plus 6 is 14.

24 MS. CARPENTER: Sorry.

25 THE COURT: So plus one, 15. So actually, you can't

1 even get to No. 16. Okay. So 12:15, hand them up. We'll
2 take a short break until then.

3 (Recess.)

4 THE COURT: Let's go back on the record because I did
5 miss sui sponte raising a scheduling issue. Okay. No. 14 is
6 Ms. Slone. And she says that she has -- she is back from
7 school on break. She has doctors's appointments -- dentist
8 appointments and optometrist appointments this week that she
9 scheduled some six months ago, and her dentist and optometrist
10 are here in Illinois.

11 And then also she's got this grad school visit on
12 Wednesday for which she needs to make a decision in January.
13 So is there an objection to excluding her for hardship?

14 MR. ADAMS: Yes, your Honor.

15 THE COURT: Does the defense also object?

16 MS. CARPENTER: No, Judge, we do not object.

17 THE COURT: Okay. And what's your rationale and
18 thinking on this No. 14, Ms. Slone?

19 MR. ADAMS: Judge, what she presented to the Court
20 were definitely inconveniences. All of those things can be
21 rescheduled. And so they're not disqualifying for cause even
22 for hard -- they don't qualify as hardship.

23 THE COURT: The problem is that because she's in
24 school in a different state, rescheduling is not as easy and
25 may be impossible given that she said that she made the

1 appointments some six months ago. And also there's this grad
2 school visit this week. And she needs to make this decision
3 in January.

4 So I do think that she should be excused for
5 hardship. So I'm going to excuse her for hardship which means
6 that it is possible now to get to Juror No. 16, okay,
7 Ms. Padilla.

8 So take a minute or two to think about whether that
9 changes your peremptory thinking but No. 14, Ms. Slone, is
10 also excused. Okay. And when you're ready, please hand up
11 the peremptories.

12 (Pause.)

13 THE COURT: Okay. The plaintiff's peremptories are:
14 No. 4, Ms. Rodriguez; No. 5, Alesandro Perez; and No. 6,
15 Ms. Devito.

16 The defense peremptories are: No. 1, Ms. Young;
17 No. 2, Ms. Pekovitch; and No. 9, Ms. Gutierrez.

18 The jurors, therefore, are: Ms. Voll, No. 3; No. 7,
19 Mr. Michael; No. 10, Mr. MacDonald; No. 11, Mr. Delgado;
20 No. 12, Mr. Perfetti; No. 13, Mr. Schiffler; No. 15,
21 Ms. Sinkevicius; and No. 8, Ms. Padilla.

22 MS. CARPENTER: Judge, I'm sorry. Who are the first
23 few ones?

24 THE COURT: The first two are Ms. Voll, No. 3; No. 7,
25 Mr. Michael; No. 10, Mr. MacDonald.

1 MS. CARPENTER: What happened to No. 2?

2 THE COURT: You struck No. 2.

3 MS. CARPENTER: Did I write that down?

4 THE COURT: Who did you mean to strike?

5 MS. CARPENTER: Okay. No, that's fine. Sorry.

6 THE COURT: Are you sure?

7 MS. CARPENTER: Yes.

8 THE COURT: Okay.

9 MS. CARPENTER: Okay. So 3, 7.

10 THE COURT: 10, 11, 12, 13, 15, 16.

11 MS. CARPENTER: Thank you.

12 THE COURT: All right. Does that square with your
13 list, the plaintiff?

14 MR. ADAMS: I'm sorry, Judge?

15 THE COURT: Does that square with your --

16 MR. ADAMS: It does, Judge. It does.

17 THE COURT: All right. And the defense?

18 MS. CARPENTER: Yes.

19 THE COURT: Okay. We'll wait until they come back.

20 (Proceedings heard in open court:)

21 THE COURT: All right. Ladies and gentlemen, if I
22 call your name, you are on the jury. And what I'll do is ask
23 you, if your name is called, to come up here and start filling
24 in the front row of the jury box here. And we're picking
25 eight for this civil trial.

1 So if -- the first four names, go ahead and sit in
2 the front row, the first seat and then two, three, four. And
3 then Juror No. 5 will sit in the back row, five, six, seven,
4 and eight, all right, so in other words, closest to the front
5 using both rows.

6 All right. No. 3, Ms. Voll.

7 Okay. No. 7 is Mr. Michael, so if you can come up
8 and sit to the left of Ms. Voll.

9 Okay. Mr. MacDonald, No. 10.

10 Mr. Delgado, No. 11.

11 No. 12, Ms. Perfetti.

12 No. 13, Mr. Schifler.

13 No. 15, Ms. Sinkevicius.

14 And the final juror is No. 16, Ms. Padilla.

15 Okay. To the rest of you, I do want to thank you for
16 showing up today and going through the jury selection process.
17 Unfortunately, I do have to tell you to go back to the jury
18 department on the second floor where they'll give you further
19 instructions. I'm sure that will include some kind of lunch
20 break. But you do have to go back to the jury department on
21 the second floor.

22 But again, I thank you for going through our jury
23 selection process. So we'll let them go first. All rise.

24 (Pause.)

25 THE COURT: Please be seated.

1 Ladies and gentlemen, we are going to break for
2 lunch, but I do need to swear you to a different oath now that
3 you are the jury in the case. So I'm going to ask each of you
4 once again to stand up and raise your right hand.

5 (Jury sworn.)

6 THE COURT: Okay. Please be seated again.

7 Okay. So our order of battle will be, we'll break
8 for lunch. We're going to show you, though, the jury room
9 because when you come back from lunch, you will come through
10 the elevator bank over on -- yes, right here, and ask to be
11 buzzed in. So we'll show you all this in a minute. And this
12 jury room will be your home away from home for the next week.

13 The instructions I told you before stand. All right.
14 So do not talk to one another about the case at all. Don't do
15 any research into the case, no independent investigation of
16 any kind because you have to decide the case based on what you
17 hear in this courtroom. So don't start researching the case,
18 the parties, the lawyers, or anything about the case at all.

19 And then we'll resume at 1:45. Okay. And I'll see
20 you then. All rise.

21 (Proceedings recessed from 12:21 p.m. to 1:45 p.m.)
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MARIA N. GRACIA,)
)
Plaintiff,)
)
v.) No. 11 CV 07604
)
SigmaTron INTERNATIONAL, INC.,) Chicago, Illinois
) December 15, 2014
Defendant.) 1:45 p.m.

TRANSCRIPT OF PROCEEDINGS - VOLUME 1B

BEFORE THE HONORABLE EDMOND E. CHANG

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1 (Proceedings heard in open court. Jury out.)

2 THE COURT: How long is your opening statement for
3 the plaintiff?

4 MR. ADAMS: Judge, it will be between 15 minutes and
5 a half an hour, certainly not more than that.

6 THE COURT: Okay. Defense?

7 MS. CARPENTER: About a half an hour.

8 THE COURT: All right. And then I see, are you going
9 to be using the -- some kind of display during the openings?

10 MR. ADAMS: Yes, sir.

11 THE COURT: Okay. So you need the jury monitors on?

12 MR. ADAMS: Yes, sir.

13 THE COURT: Okay. And are you going to be using the
14 display, also?

15 MS. CARPENTER: Yes, Judge.

16 THE COURT: Okay. So can you see your own display?

17 MS. KORN: I see wallpaper, yes.

18 THE COURT: That's what you've got on your laptop.
19 Okay.

20 Is the defense PC also plugged in right now?

21 MS. CARPENTER: It is not, Judge. I would like to
22 put it on here during my presentation if that's okay.

23 THE COURT: You can do that, but you're going to need
24 somebody to click forward for you.

25 MS. CARPENTER: I'm going to click it.

1 THE COURT: Okay. So then you'll have to use that
2 microphone right over there. Or are you going to use a
3 wireless clicker?

4 MS. CARPENTER: I was just going to stand here and
5 then when I needed to click, click, and then come back here.
6 Is that okay?

7 THE COURT: That is fine. Do you have the PC plugged
8 in right now?

9 MS. CARPENTER: I don't. I can do that.

10 THE COURT: Why don't you do that so we can just move
11 right into your stage. Is it an HDMI or VGA, HD monitor?

12 MR. ADAMS: Judge, while they are setting up over
13 there, perhaps you could answer this question about the type
14 of procedure here for me. And it might shed some light on
15 this for you.

16 I'm going to use an exhibit only to refresh a
17 witness's recollection. There is some mechanism by which you
18 can make the jury go dark and the witness still has the
19 benefit of the exhibit.

20 THE COURT: Yes.

21 MR. ADAMS: Do I just notify you or I notify Michael?

22 THE COURT: So what will happen is the default is the
23 jury doesn't see what's on the screens. Okay. And in fact,
24 the default is the witness doesn't see anything. If we get to
25 the point where you're refreshing someone's memory and you

1 say, "Would it help you remember if I showed you the e-mail
2 from October 2008" and they say, "Yes, it would," you say,
3 "Your Honor, can I show the exhibit whatever it is to help
4 them remember?"

5 And then assuming no objection, then I'll hit the
6 witness monitor, and they'll be able to see it but not the
7 jury.

8 MR. ADAMS: Thank you.

9 THE COURT: Okay. That looks good, too. Then we'll
10 switch back to the plaintiff's PC.

11 Okay. Are we ready to go?

12 MR. ADAMS: Yes, sir.

13 THE COURT: Okay. Get the jury.

14 (Proceedings heard in open court. Jury in.)

15 THE COURT: Okay. Please be seated.

16 Ladies and gentlemen, before we start with opening
17 statements, I do want to take a few minutes to tell you
18 something about your duties as jurors and to give you some
19 instructions. At the end of the trial, I'll give you more
20 detailed instructions, and those instructions will control
21 your deliberations.

22 So I want to make sure that you understand, at the
23 end of the trial, you'll get written instructions so you don't
24 have to try to take down every single thing I say right now
25 verbatim.

1 One of my duties is to decide all questions of law
2 and procedure. From time to time during the trial and at the
3 end of the trial, I will instruct you on the rules of law that
4 you must follow in making your decision. You should not take
5 anything I might say or do during the trial as indicating what
6 I think of the evidence or what your verdict should be.

7 The trial will proceed in the following manner:
8 First, Ms. Gracia's attorneys will make an opening statement.
9 Next, SigmaTron's attorneys will make an opening statement.
10 An opening statement is not evidence but is simply a summary
11 of what the attorney expects the evidence to be.

12 After the opening statements, Ms. Gracia will call
13 witnesses and present evidence. Then SigmaTron will have an
14 opportunity to call witnesses and present evidence. After the
15 parties's main cases are completed, Ms. Gracia may be
16 permitted to present rebuttal evidence.

17 After the evidence has been presented, the attorneys
18 will make closing arguments, and I will instruct you on the
19 law that applies to the case. After that you will go to the
20 jury room and deliberate on your verdict.

21 All right. As I told you earlier, the positions of
22 the parties can be summarized as follows: The plaintiff, that
23 is, the person who filed this lawsuit, is Maria Gracia, the
24 defendant who is being sued is SigmaTron International,
25 Incorporated. Ms. Gracia is a former employee of SigmaTron.

1 She claims that her civil rights were violated by SigmaTron in
2 two ways. SigmaTron denies both claims.

3 Specifically, Ms. Gracia first claims that she was
4 sexually harassed by her supervisor and that the conduct made
5 her work environment hostile or abusive. SigmaTron denies
6 that Ms. Gracia was sexually harassed by her supervisor.

7 SigmaTron also denies that a reasonable person would
8 find Ms. Gracia's work environment to be hostile or abusive or
9 that at the time that the alleged conduct occurred that
10 Ms. Gracia believed the conduct made her work environment
11 hostile or abusive.

12 SigmaTron also asserts that it took reasonable
13 measures to prevent or correct any harassing conduct in the
14 workplace and that Ms. Gracia unreasonably failed to take
15 advantage of opportunities provided by SigmaTron to prevent or
16 correct the harassment or otherwise avoid harm.

17 All right. The second claim, Ms. Gracia claims that
18 she was fired by SigmaTron because she complained to SigmaTron
19 and a government agency called the Equal Employment
20 Opportunity Commission that she was being sexually harassed
21 and that she was being harassed because of her national
22 origin.

23 SigmaTron denies these allegations and further states
24 that it fired Ms. Gracia because she knowingly permitted
25 employees whom she supervised to manufacture products for a

1 customer that did not comply with the customer's written
2 specifications. Ms. Gracia denies this allegation.

3 Now, when I say a particular party must prove
4 something by a preponderance of the evidence or when I use the
5 expression "if you find" or "if you decide," this is what I
6 mean. When you have considered all the evidence in the case,
7 you must be persuaded that it is more probably true than not
8 true.

9 Now, the evidence is going to consist of the
10 testimony of the witnesses, the exhibits admitted into
11 evidence, and any facts that I might instruct you to find or
12 that the party may agree or stipulate to.

13 A stipulation is simply an agreement between both
14 sides that certain facts are true. You will have to decide
15 whether the testimony of each of the witnesses is truthful and
16 accurate in part, in whole, or not at all.

17 You also have to decide what weight, if any, you give
18 to the testimony of each witness. You should use common sense
19 in weighing the evidence and consider the evidence in light of
20 your own observations in life. In our lives, we often look at
21 one fact and conclude from it that another fact exists. In
22 law, we call this inference. The jury is allowed to make
23 reasonable inferences. Any inference you make must be
24 reasonable and be based on the evidence in the case.

25 You might have heard the phrases "direct evidence"

1 and "circumstantial evidence" before you came here today.
2 Direct evidence is proof that does not require an inference
3 such as the testimony of someone who claims to have personal
4 knowledge of a fact. Circumstantial evidence is proof of a
5 fact or a series of facts that tends to show that some other
6 fact is true.

7 I'll give you an example. Direct evidence that it is
8 raining is testimony from a witness who says, "I was outside a
9 minute ago, and I saw it raining."

10 Circumstantial evidence that it is raining is the
11 observation of someone entering this courtroom and carrying a
12 wet umbrella.

13 The law makes no distinction between the weight to be
14 given to either direct or circumstantial evidence. When the
15 time comes to deliberate on your verdict, you should consider
16 all the evidence in the case including the circumstantial
17 evidence.

18 Now, some things are not evidence. You must not
19 consider them as evidence in deciding the facts of this case.
20 I'll list them out. The attorney's statements, arguments,
21 questions, and objections of the attorneys, not evidence; any
22 testimony that I instruct you to disregard, you must not
23 consider it; and anything you may see or hear when the court
24 is not in session right here in this courtroom even if what
25 you see or hear is done or said by one of the parties or by

1 one of the witnesses.

2 Again, I'm going to try to minimize the contact that
3 you have with anyone else in the case by instructing you to
4 keep using the north bank of elevators here, and the parties
5 and the lawyers will use the south bank of elevators.

6 From time to time during the trial, I may be called
7 upon to make rulings of law on objections or motions made by
8 the lawyers. You should not infer or conclude from any ruling
9 or other comment that I might make that I have any opinions
10 about how you should decide this case.

11 And if I do sustain an objection to a question that
12 goes unanswered by the witness, you should not guess or
13 speculate what the answer might have been, and you should not
14 draw any inferences or conclusions from the question itself.

15 All right. At times during the trial, it might be
16 necessary for me to talk with the lawyers here at the sidebar
17 or by calling a recess. We meet because sometimes during a
18 trial, something comes up that doesn't involve the jury
19 directly. We will, of course, do what we can to keep those --
20 the number and the length of the conferences to a minimum, but
21 you should remember the importance of the matter that you are
22 here to determine and should be patient even if the case seems
23 to be going slowly.

24 Any notes you take during this trial, and I think
25 you've now all been equipped with notepads and pens, they're

1 only aids to your memory. The notes are not evidence. If you
2 do not take notes, you should rely on your independent memory
3 of the evidence and not be unduly influenced by the notes of
4 other jurors.

5 Notes are not entitled to any greater weight than the
6 memories or impressions of each juror about the testimony.
7 When you leave the courthouse during the trial, your notes
8 should be left in the jury room. When you leave at night,
9 your notes will be secured and not be read by anyone. At the
10 end of the trial, your notes will be destroyed, and no one
11 will read the notes before they are destroyed.

12 All right. I do want to tell you to please pay close
13 attention to the testimony as it is given. At the end of the
14 trial, you must make your decision based on what you remember
15 of the evidence. You won't have a written transcript of the
16 testimony to consult.

17 You'll see me from time to time glance at a monitor
18 or two. I am getting a realtime draft transcript, but that is
19 all it is. It is a draft. We won't have time to finalize,
20 all right, and certify a transcript for you. So it is very
21 important that you listen to the testimony as it's given
22 because you're not going to get a transcript.

23 During the trial, sometimes I might ask a question of
24 a witness. Do not assume that because I ask questions, I hold
25 any opinion on the matters I ask about or on how the case

1 should be decided.

2 Now, all jurors must follow certain rules of conduct,
3 and you must, too. First, you must not discuss this case with
4 anyone including your fellow jurors, members of your family,
5 people involved in the trial, or anyone else.

6 You're going to hear this again and again. This is
7 probably the fourth time I think you might have heard this.
8 You're going to hear it a lot more because it is such an
9 important instruction that you not discuss this case.

10 You can't discuss the case with anyone at all until
11 the end of the trial when you begin your deliberations. That
12 will be the time to discuss the case with each other when
13 you've heard all of the evidence and the final jury
14 instructions. You must not let others discuss the case with
15 you. If anyone tries to talk to you about the case, please
16 let me know about it immediately.

17 Second, you must not read any news stories or
18 articles or listen to any radio or television reports about
19 the case or about anyone who has anything to do with it.

20 Third, you must not do any research such as
21 consulting dictionaries, searching the internet, or using any
22 other reference materials. And don't make any investigation
23 about the case on your own.

24 Fourth, if you do need to communicate with me, you
25 must give a signed note to the courtroom deputy or the law

1 clerk to give to me. And I'll have a written record of it.

2 And then finally, you must not make up your mind
3 about what the verdict should be until after you've gone to
4 the jury room to decide the case and you and your fellow
5 jurors have discussed the evidence. You are obligated to keep
6 an open mind until then.

7 All right. I'm going to give you a preview of the
8 instructions that you will receive at the end of the trial,
9 all right, that tells you what the parties must prove in order
10 to win their case.

11 Usually the jury only gets these types of
12 instructions at the end of the trial, but I think that in this
13 trial it will be useful for you to hear them now at the trial
14 start so that you can understand how some of the evidence fits
15 with the law that you'll have to apply during the
16 deliberations.

17 But remember, keep an open mind throughout the trial.
18 Do not discuss the evidence or the instructions or anything
19 about this trial with anyone including your fellow jurors
20 until I tell you it is time to deliberate at the very end of
21 the trial.

22 As I mentioned, the first claim is for sexual
23 harassment. Ms. Gracia claims that she was sexually harassed
24 by her supervisor, Patrick Silverman. To succeed on this
25 claim, Ms. Gracia must prove five things by a preponderance of

1 the evidence:

2 First, Ms. Gracia was subjected to harassing e-mails,
3 sexual advances, and on one occasion touched on part of her
4 clothing.

5 The conduct was unwelcome, that's the second thing
6 that she has to prove.

7 Third, the conduct occurred because Ms. Gracia is a
8 woman.

9 Fourth, the conduct was sufficiently severe that a
10 reasonable person in Ms. Gracia's position would find her work
11 environment to be hostile or abusive.

12 And fifth, at the time that the conduct occurred,
13 Ms. Gracia believed that the conduct made her work environment
14 hostile or abusive.

15 Now, if you find that Ms. Gracia did not prove by a
16 preponderance of the evidence each of those things required of
17 her, then you must find for SigmaTron.

18 If, on the other hand, Ms. Gracia has proved each of
19 these things, you must go on to consider whether SigmaTron has
20 proved what the law calls an affirmative defense.

21 Specifically, even if Ms. Gracia proves that she was subjected
22 to a hostile or abusive work environment, SigmaTron is still
23 not liable for sexual harassment if SigmaTron proves two
24 things by a preponderance of the evidence:

25 First, SigmaTron exercised reasonable care to prevent

1 and correct any harassing conduct in the workplace and, two,
2 Ms. Gracia unreasonably failed to take advantage of
3 opportunities provided by SigmaTron to prevent or correct
4 harassment or otherwise avoid harm.

5 If you find that SigmaTron has proved those two
6 things by a preponderance of the evidence, your verdict should
7 still be for SigmaTron. If you find that SigmaTron has not
8 proved both of those things, your verdict should be for
9 Ms. Gracia.

10 Now, to decide whether a reasonable person would find
11 Ms. Gracia's work environment to be hostile or abusive, you
12 must look at all the circumstances. These circumstances may
13 include the frequency of the conduct; its severity; its
14 duration; whether it was physically threatening or
15 humiliating; and whether it unreasonably interfered with
16 Ms. Gracia's work performance.

17 No single factor is required in order to find a work
18 environment to be hostile or abusive. Conduct that amounts
19 only to ordinary socializing in the workplace such as
20 occasional horseplay, sexual flirtation, sporadic or
21 occasional use of abusive language, gender-related jokes, and
22 occasional teasing does not constitute an abusive or hostile
23 environment. You should consider all the circumstances in the
24 social context in which the conduct occurred.

25 Okay. Now, Ms. Gracia's second claim is that

1 SigmaTron retaliated against her because she complained about
2 harassment in the workplace. Specifically, Ms. Gracia claims
3 that she was fired by SigmaTron because she complained to
4 SigmaTron and the EEOC, the Equal Employment Opportunity
5 Commission, that she was being sexually harassed and that she
6 was being harassed because of her national origin.

7 To succeed on this claim, Ms. Gracia must prove by a
8 preponderance of the evidence that she was fired by SigmaTron
9 because she made one or more of those complaints. To
10 determine that Ms. Gracia was fired because she made one or
11 more of these complaints, you must decide that SigmaTron would
12 not have fired Ms. Gracia had she not made one or more of
13 these complaints but everything else had been the same.

14 If you find that Ms. Gracia has proved this by a
15 preponderance of the evidence, then you must find for her.
16 However, if you find that Ms. Gracia did not prove this by a
17 preponderance of the evidence, then you must find for
18 SigmaTron.

19 Now, I'll make one more note before we hear opening
20 statements. As I just said, Ms. Gracia alleges that SigmaTron
21 fired her in retaliation and for complaining that she was
22 being sexually harassed and that she was being harassed
23 because of her national origin. That's the retaliation claim
24 that I described.

25 There is a sexual harassment claim in this case, in

1 this trial. You heard that was the first claim. But there is
2 no claim of national origin harassment in this case or in this
3 trial.

4 You will not be asked to determine whether there was
5 harassment against Ms. Gracia on the basis of national origin.
6 You're only going to be asked to determine on the retaliation
7 claim whether SigmaTron fired her in retaliation for having
8 made that complaint.

9 Okay. We are ready for opening statement. And once
10 again, this itself is not evidence but it is a statement that
11 allows the attorneys to preview for you what they believe the
12 evidence will show.

13 All right. For the plaintiff?

14 OPENING STATEMENT ON BEHALF OF THE PLAINTIFF

15 MR. ADAMS: Thank you, Judge.

16 Again, my name is Hall Adams, and I represent Maria
17 Gracia along with my co-counsel and trial partner, Kathy Korn.
18 Maria is seated to Kathy's left. And an additional add-on to
19 our lineup, Mike Miller here to my immediate right will help
20 us with all this technology as I don't have the first clue
21 about how any of it works.

22 Maria Gracia has worked since she was 16 years old.
23 And unlike a lot of kids who work from an early age to make
24 extra spending money to go to the movies or to go out for an
25 ice cream, Maria Gracia has worked since that age to help

1 support her father and her mother and her siblings.

2 Work is the cornerstone of their family ethos. Maria
3 has always worked. It is one of the things that gives her
4 dignity. Maria worked for SigmaTron beginning in July of
5 1999.

6 In late October of 2008, she finally did what the
7 firm's policy said she should do if she felt that she was
8 being discriminated against and harassed. And she went to the
9 company's corporate HR director. And she complained that her
10 supervisor, her immediate supervisor, the person she had to
11 report to day in and day out, had been sexually harassing her.

12 That meeting was not helpful. So a few weeks later,
13 Maria Gracia went to the EEOC and complained to the EEOC as it
14 was her legal right to do that she was being sexually
15 harassed, harassed on the basis of her national origin, and
16 retaliated against in the workplace.

17 SigmaTron got notice of her complaint to the EEOC on
18 19 November 2008. And after years of loyal, productive
19 service to SigmaTron, two weeks later, Maria Gracia was fired
20 by SigmaTron.

21 For years prior to Maria's finally going in to report
22 the harassment to corporate HR, her supervisor, Patrick
23 Silverman, had been sexually harassing Maria. In any one
24 particular way, the evidence will demonstrate it might have
25 been innocuous, harmless, sophomoric stuff but over the course

1 of years on a regular basis, it became oppressive. It was
2 humiliating, and it was debasing. Let me give you some
3 examples of what the evidence will show.

4 Would you call up Exhibit 2.

5 This is an e-mail that Patrick Silverman sent to
6 Maria Gracia, a female direct report, in November of 2007.

7 Would you pull up the picture that accompanied the
8 e-mail?

9 This is a picture that Patrick Silverman forwarded to
10 Maria Gracia with that e-mail.

11 Would you pull up Exhibit 3?

12 This is another e-mail that Patrick Silverman sent to
13 Maria Gracia on SigmaTron's proprietary e-mail network to
14 Maria's SigmaTron e-mail address.

15 Would you pull up the picture that he sent with that
16 e-mail?

17 Would you pull up Exhibit 3, another e-mail that
18 Patrick Silverman sent to -- or rather, 4. We're on 4, that
19 Patrick Silverman sent to Maria Gracia, one of his direct
20 reports. Can you pull up the picture that he sent with that?
21 Her immediate supervisor sent her these pictures.

22 Would you pull up Exhibit 5 and the photo that he
23 sent with it?

24 This picture is noteworthy because the woman depicted
25 in it was Maria's kid sister, Laura, who also worked at

1 SigmaTron. The gentleman whose face appears in the photograph
2 was a male SigmaTron co-worker. The caption in the Spanish
3 language under that photograph translates, "mother, milk,
4 please." Okay. You can take those down.

5 In the fall of 2007 in October, Patrick Silverman
6 delivered to Maria Gracia a Sweetest Day card. Maria didn't
7 want Patrick Silverman to be her Sweetest Day sweetheart then
8 or ever.

9 Subsequent to that, Patrick Silverman would bring
10 pastries to Maria at work. And unlike coworkers for whom
11 these pastries would be left in a common eating area in the
12 SigmaTron plant, Patrick Silverman would call Maria up to his
13 office on the second floor and hand deliver the pastries with
14 come-on type language.

15 He asked her to be his Valentine. Beginning in April
16 of 2008 after Maria moved out of her parents's home and into
17 an apartment with her kid sister, Patrick Silverman began to
18 call Maria after hours on his SigmaTron cell phone to Maria's
19 cell phone and ask her out on dates, to come out with him to
20 clubs in the area.

21 On more than one occasion, Patrick Silverman
22 suggested to Maria that because she lived close to Wrigley
23 Field and he lived out in the Rockford area that it would make
24 sense if he could spend the night at her home rather than
25 travel back to Rockford after a Cubs game.

1 Around the time that Silverman started with the calls
2 on a regular basis, frequent calls, Maria's performance at
3 work started to slip in some obvious ways. To that point,
4 according to SigmaTron's people, Maria had been a star
5 performer. She had risen from the assembly line where they
6 make circuit boards up to assembly group leader, up to an
7 assembly supervisor.

8 And right around the calls started coming from
9 Silverman, her performance started to slip in some notable
10 respects. Specifically, she became chronically, not severely,
11 but chronically tardy. What she was doing was trying to make
12 a point of coming into the assembly shop area after Silverman
13 had gone into his own office to avoid Silverman, in other
14 words.

15 Silverman, having been rebuffed by Maria over and
16 over and over, started to write her up for the tardiness and
17 for other relatively minor infractions of SigmaTron's rules,
18 taking lunch in the wrong area, for example.

19 MS. CARPENTER: Objection, your Honor. That's a
20 motion in limine.

21 THE COURT: Let's have a sidebar.

22 (Proceedings heard at sidebar:)

23 THE COURT: Okay. What's the objection?

24 MS. CARPENTER: The objection is that -- actually,
25 there's two. The first comment he made that Maria was

1 rebuffed and that's why she decided to be tardy, plaintiff's
2 counsel said that they're not going to make that argument.
3 That's the first objection.

4 THE COURT: So on that, the argument that they
5 weren't going to make that that was a basis for retaliation.

6 MS. CARPENTER: That's correct.

7 THE COURT: So that's -- go ahead.

8 MR. ADAMS: So Judge, she makes a claim, there are
9 exhibits in evidence, she makes a claim to the EEOC for
10 retaliation. Those documents are going to be in evidence.
11 That's the retaliation she was complaining about when she goes
12 to the EEOC in November.

13 She's not terminated obviously in November of 2008.
14 And there has to be some explanation for the retaliatory
15 conduct that is the basis for the complaint.

16 THE COURT: So you have -- at the pretrial conference
17 sessions, you've made clear that you're not arguing that
18 anything other than the termination was retaliatory.

19 MR. ADAMS: We are not seeking relief for any other
20 retaliation. The claim on which we're going to go to the jury
21 is for the retaliatory discharge. But the conduct that led to
22 that included Silverman's increasingly nitpicking supervising
23 of Maria because she rebuffed him. That's what she -- that's
24 one of the things that she complained to the EEOC about.

25 THE COURT: So it's one thing to say that the only

1 adverse employment action that you believe is based on
2 retaliation is the termination. So you've made that
3 commitment. You understand that, right?

4 MS. CARPENTER: Yes.

5 MR. ADAMS: Yes.

6 THE COURT: And so how does calling it the steps
7 leading up to the termination distinguish it from the actual
8 retaliatory termination?

9 MR. ADAMS: I'm not sure I follow, Judge.

10 THE COURT: Either you're going to stand up there in
11 front of the jury and you're going to ask the jury to find
12 that the termination and just the termination was retaliatory
13 and that's why she should get relief and that -- so that's
14 what you've committed to.

15 MR. ADAMS: I believe so.

16 THE COURT: Okay. So what are you -- what are you
17 arguing is the -- so what's the evidentiary value, what is it
18 relevant to show that Silverman was imposing these other
19 pieces of discipline?

20 MR. ADAMS: So for example, Judge, in late October of
21 2008, Maria Gracia goes in to Sandy Miedema, the appropriate
22 HR person, and complains explicitly that Patrick Silverman was
23 treating her differently. He's writing her up for this, he's
24 writing her up for that. That will be the evidence in the
25 case.

1 And the result of the course of conduct is, it was
2 the defense here that she should have gone to HR sooner, she
3 didn't go and tell HR about her concerns about Silverman's
4 conduct when, in fact, she did do that.

5 So that is part of Silverman's harassment of her.
6 It's not the basis for the retaliatory discharge claim. It
7 certainly is part of the harassment of Maria Gracia on the
8 basis of her sex.

9 THE COURT: You have a hostile work environment claim
10 that is based on the e-mails, the unwanted sexual advances,
11 and the touching. That, you also had committed to.

12 So it's not accurate to say that his writing her up
13 for various disciplinary problems that she says were not
14 problems or were caused by what he did, that is not part of
15 the hostile work environment claim.

16 Now, if you're saying that the evidence will be that
17 she was complaining to HR about these disciplinary write-ups,
18 is that what --

19 MR. ADAMS: That is correct. That's what she'll say,
20 and that's what the HR person will say.

21 THE COURT: And that she believed that he was writing
22 her up based on her rejecting his sexual advances.

23 MR. ADAMS: Yes.

24 THE COURT: Okay. So that would be an internal
25 complaint for which the termination could then be possibly

1 retaliatory. What's your response to that?

2 MS. CARPENTER: Judge, they already committed to say
3 that nothing regarding writeups for other materials including
4 where she was for lunch, that she was gone for lunch for more
5 than an hour and ten minutes.

6 So we withdrew those exhibits because they committed
7 that it would only be the sexual advances, the sweater pull,
8 and the e-mails. This is information that they committed
9 would not come in. This is information that you then had us
10 withdraw exhibits and they withdrew exhibits, too. So any
11 testimony about them should not be admissible.

12 THE COURT: Yes. What I don't understand is, if you
13 had some theory that the plaintiff was complaining to HR about
14 being written up by Silverman and that the plaintiff told HR,
15 "I'm being written up because he's harassing me sexually and
16 that was a basis for retaliation," that's all possible but you
17 withdrew -- you withdrew this -- these facts. You withdrew
18 the exhibits at the pretrial conference sessions.

19 So I -- so that would have been the line of argument
20 that you could have pursued, but you withdrew all of that.
21 And then the defense withdrew their exhibits on this.

22 What you said, and when I say "you," I'm including
23 Ms. Korn, said at the pretrial conference sessions is that we
24 will still introduce her tardiness but to show that that was
25 the impact of the harassment on Mr. -- that Mr. Silverman was

1 engaging in.

2 And Mr. Riordan is nodding his head yes because
3 they're prepared to meet that. But this is now -- this is a
4 different line of argument that was not articulated before.

5 So you can continue to argue that her performance
6 deficiencies were due to the harassment of Mr. Silverman, but
7 that's as far as you can go with that. Okay.

8 MS. KORN: Thank you.

9 (Proceedings heard in open court:)

10 THE COURT: All right. Ladies and gentlemen, I'm
11 going to ask you to disregard the last statement made by the
12 plaintiff's counsel. You probably have already forgotten it
13 by now, but it had to do with the break area. So that is, in
14 the context in which this was made, that will be disregarded.
15 You may hear it come up at other times but for now, disregard
16 that last statement.

17 Okay. Mr. Adams?

18 MR. ADAMS: When she went to the corporate HR
19 director, one of the things about which Maria complained was
20 that Patrick Silverman with whom she had worked for many years
21 had called her after hours from a vendor's party, a supplier's
22 party and asked her, insisted really and called more than once
23 from the party to insist that she come out and join him at the
24 supplier's party, in which she had no interest.

25 And when she made this complaint to corporate HR, she

1 expected that finally corporate HR would take some action, if
2 not to discipline Silverman, to stop this course of conduct.
3 Instead what happened was that the corporate HR director took
4 Maria up to Mr. Greg Fairhead's office. Mr. Fairhead is the
5 executive vice president of the company and was the officer
6 who was -- had overall responsibility for the Elk Grove plant.

7 So the HR director thought this particular complaint
8 about the late night call from the party was important enough
9 to go right up to Mr. Fairhead's office and tell him all about
10 it.

11 Mr. Fairhead's reaction then was to send Maria out of
12 the room and have Silverman come up and meet with he and
13 Ms. Miedema.

14 After that meeting, SigmaTron's response,
15 Mr. Fairhead's response, was to have Silverman and Maria
16 Gracia shake hands and go back to work and promise that they
17 could work productively for SigmaTron together. That was the
18 reaction.

19 And because it was no help at all, Maria then went to
20 the Equal Employment Opportunity Commission. And she made a
21 specific claim to that agency as it was her right to do that
22 she was being discriminated in the workplace on the basis of
23 her sex, her national origin, and that she had been retaliated
24 against.

25 SigmaTron got that complaint on -- they got notice, I

1 should say, of that complaint on 19 November 2008, and it
2 fired Maria two weeks later.

3 The stated reason for the termination is that Maria
4 had purposely allowed the assembly line that she supervised to
5 process or manufacture circuit boards with the wrong type of
6 solder.

7 And the SigmaTron explanation of how that came to its
8 attention is that a coworker, a fellow supervisor, a peer, if
9 you will, of Maria's reported the assembly problem to Patrick
10 Silverman who then reported it to Mr. Fairhead who then made
11 the decision to fire her on that basis, this soldering
12 discrepancy, and on that basis alone.

13 If the witnesses are called in the order we expect
14 based on their availability and so forth, we expect that the
15 last witness we'll call will be a -- will be Mr. Trujillo
16 himself, this coworker. And he will tell you that that just
17 did not happen.

18 The evidence will show that the basis that SigmaTron
19 offers for terminating Maria Gracia after all those years of
20 loyal and productive employment were a trumped-up basis. The
21 evidence will show that she was terminated because she had
22 complained about Patrick Silverman's sex harassment, that she
23 had complained to corporate HR, and that she had complained to
24 the EEOC and, therefore, SigmaTron fired her.

25 They happen to have done this at a particularly

1 difficult time as the economy had tanked. And so Maria to
2 whom work meant everything was out of work until well into
3 2010. And Maria will tell you herself what that did to her
4 personal sense of self-respect. Being unemployed is tough.
5 It's even tougher if your entire family work ethic is about
6 work.

7 She will tell you how humiliating it was to be picked
8 on, come on to in the workplace. She will tell you how
9 humiliated she was the day that Patrick Silverman walked up to
10 her in front of coworkers and actually pulled the neck part of
11 her turtleneck sweater back and challenged her to reveal
12 hickeys in the workplace.

13 At the close of the case, I'll stand here again and
14 I'll ask you to return a verdict for Maria Gracia and against
15 SigmaTron because Maria Gracia was sexually harassed. She was
16 subjected to a hostile workplace environment. And she was
17 retaliated against when SigmaTron fired her because she had
18 attempted to exercise her lawful right to make that claim to
19 the EEOC. Thanks very much for your time.

20 THE COURT: All right. For the defense?

21 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

22 MS. CARPENTER: Judge, I just have to get a couple
23 things.

24 Good afternoon, ladies and gentlemen of the jury. As
25 you might have forgotten by now, my name is Tiffany Carpenter.

1 And along with my co-counsel, Tim Riordan, we represent
2 SigmaTron International, Incorporated.

3 Plaintiff's claims are not against Patrick Silverman.
4 They're against her former employer, SigmaTron. And it's
5 going to be very important for you to know about three
6 policies that SigmaTron had while Ms. Gracia was employed
7 there. And it will help if you pay attention to the numbers
8 in this case.

9 The first policy I'd like to talk about is
10 SigmaTron's sexual harassment policy. And the numbers you can
11 remember with that policy are 4, 2, 0, and 3.

12 I'm going to show you a document now. And I'm sorry.
13 I've got to go back and forth. But it's Ms. Gracia's
14 acknowledgement of receipt of the sexual harassment policy.

15 I'm going to highlight here this section that says,
16 "I agree to abide by the policy" --

17 MR. ADAMS: Excuse me, your Honor. We're not coming
18 up here.

19 THE COURT: Hang on one second.

20 First, I think the jury monitors are on. So neither
21 one of yours are on?

22 MS. KORN: No.

23 THE COURT: All right. One second.

24 (Pause.)

25 MR. ADAMS: So Judge, in the interest of time, I can

1 sit back here.

2 THE COURT: Why don't you relocate.

3 MS. CARPENTER: So that section, ladies and
4 gentlemen, says, "I agree to abide by the policy and to report
5 infractions known to me as set forth in the policy."

6 I'm now going to show you the complaint procedure in
7 that policy. And I'm highlighting a section up there at the
8 top that says: "Any person who believes that he or she has
9 been subjected to harassment prohibited by the policy or who
10 becomes aware of conduct that may violate this policy, should
11 immediately report it to your human resources manager or the
12 corporate human resources manager."

13 I'm going to go ahead and highlight another section
14 of that policy that says: "This complaint is a critical part
15 of SigmaTron's efforts to eliminate workplace harassment.
16 Persons who believe they may have been harassed or who receive
17 reports of harassment of others are required to use this
18 procedure."

19 I see a couple eyes just reading it. I want to make
20 sure you have enough time to look at it.

21 The documents and testimony will be the evidence in
22 the case. And as these documents show, Ms. Gracia received,
23 understood, and agreed to follow SigmaTron's sexual harassment
24 policy. We have testimony that will demonstrate that this is
25 the case as well.

1 I told you about the number 4. This is where the
2 number 4 becomes important. There were four common areas at
3 SigmaTron that are still there today where this policy is up
4 for employees to see just in case they had forgotten it. One
5 is right when the employees enter the building and they take
6 their card and they swipe in.

7 Another is halfway down the hallway on the way to the
8 lockers, the employee lockers, there's a copy of this policy
9 there, too. The third is in the lunchroom. And the fourth is
10 located in the mailroom.

11 The testimony will show, I believe Ms. Gracia will
12 take the stand, and she'll admit that she knew that if she had
13 a problem about sexual harassment, she was to tell Sandy
14 Miedema, SigmaTron's corporate human resources manager, who
15 incidentally had a good working relationship with Ms. Gracia.

16 Ms. Miedema will tell you that Ms. Gracia had
17 actually helped the human resources department convey the
18 terms of all of the policies including the sexual harassment
19 policy during orientation.

20 You'll also learn from Ms. Miedema that Ms. Gracia
21 was pursuing a degree in human resources. And Ms. Miedema
22 encouraged her to do so and told her that she'd be happy to
23 help her in any way she could.

24 Now, this is where the number 2 becomes important.
25 In October of 2008, Ms. Gracia met with Ms. Miedema. And

1 contrary to what was just told to you, I believe the evidence
2 is going to show you that during neither of these meetings did
3 Ms. Gracia tell Ms. Miedema that she had been sexually
4 harassed by Mr. Silverman.

5 In fact, Ms. Gracia had been quite late to work, and
6 Sandy Miedema had taken her phone call. On the day that she
7 had received a two-day suspension, Ms. Gracia called her and
8 said, "I want to talk to you as soon as I get back Monday
9 morning."

10 Ms. Miedema said, "Open arms, come on in."

11 So she came on in. And Ms. Miedema is going to tell
12 you, I believe, when she takes the stand that she said,
13 "Please open up to me. These erratic tardies, what's going
14 on? I'm here to help you."

15 And this is where the number zero becomes important
16 because during zero of those meetings did Ms. Gracia say that
17 the reason for her tardiness was because of Mr. Silverman.

18 MR. RIORDAN: Excuse me, your Honor. One of the
19 jurors, I believe, has a note that she would like to pass to
20 the Court.

21 THE COURT: All right. Let's -- here's what we'll
22 do. I'm going to take a ten-minute break at this point and
23 I'll take a look at this, so all rise.

24 (Proceedings heard in open court. Jury out.)

25 THE COURT: Okay. The note simply says: "The copies

1 that were shown were difficult to read due to the poor quality
2 of the copy on screen and the small print. I am not positive
3 that I read the highlighted part accurately."

4 Okay. So --

5 MS. CARPENTER: It wasn't me.

6 THE COURT: What was that?

7 MS. CARPENTER: It wasn't me at least.

8 THE COURT: I'm sorry. It wasn't you.

9 MS. CARPENTER: Something I did.

10 THE COURT: If you can zoom in on the computer, then
11 you can zoom in. It will zoom in. You don't have to, okay,
12 because the exhibit, I'm sure, is going to come into evidence
13 so you can deal with it at that point. But you're on notice
14 that she had some difficulty reading it.

15 Okay. We'll just make this our midafternoon break.
16 So go ahead and take another ten minutes. We can tell the
17 jury -- let's go off the record and address the video
18 situation.

19 MR. RIORDAN: I just wanted to mention, I hope the
20 Court didn't think I...

21 (Recess.)

22 MS. CARPENTER: Judge, we hooked in over here.

23 THE COURT: I see. Hold on one second.

24 Can you see it on your table? All right. We're
25 ready for the jury then. Can you --

1 MS. CARPENTER: It's going to be a bit -- it will be
2 a blue screen and then it will change. I guess could you be
3 in charge of not allowing them to see anything when the
4 exhibit is not up there? Because that way then you don't have
5 to see my whole desktop of files.

6 THE COURT: Okay. So the jury monitor is now off.
7 So when you want me to turn it back on --

8 MS. CARPENTER: Great.

9 THE COURT: -- I will turn it back on.

10 MS. CARPENTER: Thanks, Judge.

11 THE COURT: Now we're ready.

12 (Proceedings heard in open court. Jury in.)

13 THE COURT: Okay. Thanks for your patience during
14 that break, ladies and gentlemen. It was just an audiovisual
15 matter. So if at any time you do have trouble either seeing
16 or hearing, you can just raise your hand and let me know and
17 then that way, we'll let the lawyers know. Okay.

18 All right. We're ready to resume. Ms. Carpenter?

19 MS. CARPENTER: Thank you.

20 We had gotten through the 4 and the 2. And now we're
21 going to go through zero and 3 and at the end, I'll recap them
22 so as not to forget what happened in the 4 and 2.

23 But the zero, the number zero is important because
24 plaintiff, I believe, is going to take the stand, and she's
25 going to admit that those e-mails that Mr. Adams showed you,

1 she never told SigmaTron about them while she was employed
2 there, zero times.

3 She also will tell you that on zero occasions, she
4 never -- I'm sorry. She never told them that he asked to stay
5 at her home. She never told them that he tried to pull on the
6 neckline of her turtleneck sweater. I believe she will admit
7 that on zero occasions, he texted her, on zero occasions that
8 he gave her a holiday card, on zero occasions that he gave her
9 a pastry.

10 And I told you that the documents are part of the
11 evidence in the case. Well, what you won't have, what
12 plaintiff won't bring to you are any text messages, holiday
13 cards, and you won't hear any voicemail. She's not going to
14 present any to you in this case.

15 The evidence is going to show you that she never told
16 SigmaTron that Mr. Silverman sexually harassed her while she
17 was employed there. And we expect she'll also admit that
18 Mr. Silverman never kissed her, never groped her, never told
19 her that he wanted to have sex with her, never asked her for
20 sex, and never told her that if he did have -- if she had sex
21 with him that she'd move up in the company.

22 Now, here's where the number 3 comes in because
23 despite knowing she had a duty to report any sexual
24 harassment, despite two occasions meeting with Sandy Miedema
25 who she had a good working relationship with, she never said

1 anything.

2 And it was only almost three years after her
3 employment ended with SigmaTron that she first let SigmaTron
4 know her allegations of sexual harassment regarding
5 Mr. Silverman, which was more than three years after the very
6 first of these alleged claims happened.

7 So just to give you that recap, I told you what
8 happened. We're talking about the sexual harassment policy.
9 The numbers are 4, 2, 0, and 3.

10 4 are the number of locations where SigmaTron keeps
11 its sexual harassment policy in common areas. You've got the
12 entrance, a little bit further down the hallway, the
13 lunchroom, and the mailroom.

14 She met with Ms. Miedema on two occasions. Zero is
15 the number of times she told Ms. Miedema that Mr. Silverman
16 sexually harassed her. And 3 represents the fact that it was
17 almost three years after she left SigmaTron's employment that
18 she finally gave notice to SigmaTron of her alleged claims of
19 sexual harassment which, of course, was more than three years
20 after the very first of these claims took place.

21 Now, the second policy that will become important in
22 this case is SigmaTron's attendance policy. And the numbers
23 you're going to want to write down are 90, 20, 2, and 0.

24 At the time of her termination, Ms. Gracia was an
25 assembly line supervisor. And I don't know if you've seen the

1 "I Love Lucy" episode where Lucy and Ethel are assembly line
2 workers and they're at the chocolate factory and the chocolate
3 is coming down, and it's ramping up and it's getting too fast
4 and they're throwing the chocolate in their mouth and in their
5 hat and they put it on before their boss gets there.

6 Well, at the very beginning of that episode, you see
7 Lucy and Ethel sitting there waiting. And that's akin to what
8 would happen before Ms. Gracia would get to work. Her
9 assembly line workers would sit and wait because she was the
10 one who was going to tell them whose circuit boards to put
11 together, what needed to go on the circuit boards, and
12 directions for the day. So they'd sit and wait.

13 It was very important that she be on time and she
14 give them direction because her tardiness would lead to all
15 the other employees being tardy, too, and work not being done
16 efficiently.

17 Her start time was 6:30 a.m. when the shift began.
18 And in 2008, Mr. Fairhead made it known that if you were going
19 to be late, you were going to receive some discipline. You
20 needed to be on time.

21 Mr. Silverman, who you'll get to meet shortly, he was
22 the production manager in 2008. And he would run quarterly
23 reports to identify every quarter if there were any issues
24 with attendance.

25 So when he ran his report in July of 2008 -- and

1 sorry. This is where the number 90 comes in. When he ran his
2 report in July of 2008, it revealed that Ms. Gracia had been
3 late 90 percent of the time over that 90-day period.

4 Now, he had known that Ms. Gracia had been late
5 because he and other supervisors including Mr. Trujillo had
6 stepped in when she was late to get the assembly line workers
7 going, but what he didn't realize is that on over a dozen
8 occasions, she was late for more than an hour. And he didn't
9 appreciate that it was 90 percent of the time.

10 So as was his responsibility, he brought this to
11 Mr. Fairhead. And the two gentlemen then spoke with
12 Ms. Gracia about it. This is a July 21st, 2008, record of
13 that meeting. And that is -- I'm going to try to highlight
14 something for you.

15 I'm not going to highlight it because it doesn't seem
16 to work. But I'll tell you, it says it's July 21st, 2008.
17 The parties concerned are plaintiff, Greg Fairhead, and
18 Patrick Silverman. And I'll read a portion of it to you which
19 hopefully you can see now which says:

20 "Maria was spoken to about her poor attendance
21 practices. She has been tardy in excess of 90 percent of the
22 time of the past three months alone. She was informed that
23 this will no longer be tolerated at SigmaTron. If these
24 practices continue, the company will subject her to further
25 disciplinary action up to and including immediate

1 termination."

2 Now, following this meeting, the testimony will be
3 that Ms. Gracia went to Mr. Silverman and told her, "You don't
4 have my back." He told -- she told him that she was upset
5 with him for being involved in the writeup for her tardiness.
6 She made him know that.

7 Now, this is where the number 20 becomes important
8 because despite being warned in July of 2008 -- thank you,
9 Mary.

10 Despite being warned in July of 2008 that if she was
11 late again in the next 90-day period she would be disciplined,
12 the next quarterly report revealed that she was late 20 more
13 times in that next 90-day period.

14 So as was his responsibility, he brought --
15 Mr. Silverman brought the quarterly report to Mr. Fairhead's
16 notice. And then the two gentlemen met with Ms. Gracia.

17 And you can go ahead, Mary, and put that up there.
18 Thanks.

19 This is a document of what was said and done during
20 that meeting. You can see it's dated October 15th, 2008. And
21 it says:

22 "Maria's attendance continues to exceed a tolerable
23 level." It says, "See attached. This affects not only shift
24 startup issues, it also promotes and displays a carefree
25 attitude to the employees and peers she works with. Maria may

1 not miss any scheduled time in the next 90 days or immediate
2 termination will result."

3 And up at the top right, it says that she was
4 suspended for two days without pay on October 16th and Friday,
5 October 17th. The reference to "see attached" is because
6 there was a printout that's behind this record, and it shows
7 that quarterly report that he runs. And you'll have an
8 opportunity to see it later. He'll talk about it.

9 But basically, he went through, he counted them and
10 he made notes, for example, on days she was absent if they had
11 been excused. Only those 20 tardies were actually counted.

12 The number 2 comes up again here because that day
13 that Ms. Gracia received that two-day suspension, she called
14 Ms. Miedema and said, "When I get back, I'd like to talk to
15 you about this."

16 And we've already gone through the details.
17 Ms. Miedema welcomed her in. "Please open up to me. You have
18 these tardies. What's going on? How can I help you?"

19 And Ms. Gracia never once mentioned that Patrick
20 Silverman was the reason for her tardies. In fact, when you
21 see this write-up, you'll see Ms. Miedema took notes of the
22 reasons she gave Ms. Miedema: Bus, car troubles, stress,
23 things like that. Never was Mr. Silverman mentioned.

24 There was another meeting which was on that Friday.
25 And that was actually initiated by Ms. Miedema. She wanted to

1 follow up with Ms. Gracia and see how things were going. They
2 met. And again, no mention that Mr. Silverman had sexually
3 harassed her.

4 So now we're on zero. Zero is the number of times,
5 of course, that Ms. Gracia complained to SigmaTron while she
6 worked there that the reason for her tardiness was
7 Mr. Silverman.

8 And just to give you a recap on this one, it's 90,
9 20, two, and zero. 90 because 90 percent of the time over a
10 90-day period she was late; on over a dozen occasions, more
11 than an hour late. 20 because in the next 90-day period, she
12 was late 20 more times. Two because she had two meetings with
13 Ms. Miedema after this tardiness occurred. And zero because
14 she never blamed her tardiness on Mr. Silverman.

15 Now, the third policy that we're going to talk about
16 and discuss today is SigmaTron's policy to follow customer
17 specifications. And the numbers you'll want to remember with
18 this policy are three and zero.

19 As I mentioned, Ms. Gracia was an assembly line
20 supervisor. And I'd like to give you an idea of what
21 SigmaTron actually does. SigmaTron is what they call a
22 contract assembler of electronic circuit boards.

23 So I'm holding a couple of the circuit boards that
24 SigmaTron actually assembled for different customers. And as
25 you can see, they're different in color. Their components are

1 different. And they have solder.

2 Now, solder comes from these two spools. These are
3 two different kinds of solder. And what I'd like to show you
4 is just demonstrate it for you. So an assembly line
5 supervisor finishes putting things on the board. And then
6 there's a hand solderer who takes this solder, heats up their
7 machine to the particular temperature that's required for that
8 type of solder, and then they put it, of course, on the board
9 like this.

10 And I have a picture of someone doing just that.

11 So what SigmaTron gets from its customers is similar
12 to the ingredient section of a recipe but instead of flour,
13 salt, and butter, SigmaTron gets, you know, what kind of
14 solder to use, what kind of components to use, and what kind
15 of circuit board to use.

16 And if you've ever tried to substitute an ingredient
17 in a recipe, you've learned probably that it just doesn't turn
18 out right. Well, SigmaTron does not have the luxury of
19 allowing it not to turn out right.

20 And that's because SigmaTron's customers are users of
21 electronic assemblies to cockpit controls, external heart pump
22 used by doctors and, of course, heart patients, and carbon
23 monoxide detectors, just to name a few. So for them, it can't
24 just not be right. You can't just substitute an ingredient
25 for another. This is why SigmaTron has a policy specifically

1 to follow customer specifications.

2 Now, here is where the numbers come in. The number
3 three is the reason -- there are three important reasons why
4 it's absolutely critical that SigmaTron follow its customer
5 specifications.

6 The first is, SigmaTron like any business is only as
7 good as its word. And it contracts and it promises that it
8 will provide its customer with exactly what the customer
9 specified. If SigmaTron does not do that, it will lose the
10 customer's business.

11 Number two is because as I mentioned, the types of
12 things and products that these circuit boards go into are
13 significant, can be very significant. And if you don't use
14 the right solder or the components or the board, it could
15 short circuit, so the end product could malfunction.

16 And the third reason is because the type of business
17 that SigmaTron is in is highly regulated. And there's
18 international standards and industry regulations that require
19 SigmaTron to have processes in place so that SigmaTron follows
20 customer specifications.

21 So any deviation from the customer specification,
22 SigmaTron could have its industry certifications for these
23 regulatory industries stripped away which as you can imagine
24 would mean they couldn't actually do anything for national or
25 international companies.

1 As the assembly line supervisor, I believe Ms. Gracia
2 will admit that it was her responsibility to get the hand
3 soldering equipment for her employees to tell them who's --
4 you know, what are we working on today, what type of solder
5 will be used. And it will become immensely important and
6 clear from at least Mr. Fairhead's testimony the very
7 difference between the two types of solder.

8 There's leaded solder and there's RoHS solder. And I
9 have a picture of that. So leaded solder is leaded solder.
10 RoHS stands for restriction of hazardous substances. And
11 there are six hazardous substances missing from RoHS solder
12 that, of course, are found in leaded solder.

13 And the melting temperature that I told you that the
14 machines are turned up to are different for the two types of
15 solder because they're different.

16 There are customers who only want leaded. There are
17 customers who only want RoHS. And so much so that
18 SigmaTron -- SigmaTron created a room for RoHS only so that
19 they could certify to their customers that there was no
20 question that in this room, your boards will be done with RoHS
21 solder only.

22 Leaded boards are not allowed in the RoHS room.
23 Leaded solder is not allowed in the RoHS room because of the
24 fear of contamination. And I believe the testimony will be
25 clear to you that leaded is never to go into that RoHS room.

1 As the assembly supervisor, not only was it
2 Ms. Gracia's job to put out the components and solder, let her
3 employees know exactly what they were supposed to do with
4 them, she was to monitor them throughout the day. And then
5 ultimately she was responsible for making sure that what was
6 the finished product met the customer specifications before it
7 was shipped out.

8 Now, one issue that you're going to learn is that
9 once this solder is placed on the circuit board, it's
10 virtually to the human eye difficult to figure out which one
11 it is. So her point of contact was one of the very last
12 points of contact where the company would know which one was
13 used. So it was even more important that she use the correct
14 solder and have her assembly line workers and, more
15 importantly, her hand solderers use the right solder.

16 I want to go to December 4th, 2008. This is the day
17 where plaintiff's egregious act led to her termination. And
18 you heard about a man, Eduardo Trujillo. And he is a friend
19 of Ms. Gracia's. Just like you go to work and you see people
20 for hours on a day, you exchange jokes, you go out to lunch,
21 you share news about your life. This is the type of
22 friendship I understand they had.

23 And Mr. Trujillo worked on the machines where these
24 circuit boards would go through because some customers specify
25 certain components that can't be done by hand. They're done

1 by machine. So Mr. Trujillo had worked on boards and had them
2 go through his machines. And he knew that one of these boards
3 was only to be a leaded assembly. So it is a leaded circuit
4 board, and it was only to have leaded solder. It's the white
5 solder.

6 He happened to go into the RoHS room. No leaded
7 solder is allowed. And he saw Ms. Gracia's hand solderers
8 applying RoHS solder onto the leaded board.

9 So he went up to his friend. He said, "Hey, do you
10 know this is going on? The customer only allows leaded on
11 it."

12 And her response is why I come to the zero of my
13 outline here because her response was, "I have done this many
14 times before and nobody ever found out." And she didn't stop
15 her assembly -- her hand solderers from continuing doing it.

16 Well, this, as you can imagine, put Mr. Trujillo in
17 quite a predicament. He knew that there was a violation, the
18 fact that these leaded boards were in the RoHS room. He knew
19 that the assembly -- I'm sorry, the hand solderers were
20 applying the wrong solder.

21 And now he went up to his friend and he said, "Hey,
22 this is going on." She didn't stop it and she said, you know,
23 "Basically it happens all the time."

24 So very quietly, he went to the production manager,
25 Patrick Silverman. And he told him, "I don't want her to know

1 that I'm the one telling you that this is going on, but I just
2 went in there. I saw this happening. She didn't stop it.
3 And they're continuing to do it. And she told me she's -- you
4 know, it happens all the time."

5 So Mr. Silverman then went into the RoHS room, saw
6 eight to ten of her employees doing this. He went up to her
7 and said, "Is there something I don't know. You know, why are
8 they doing this? It's supposed to be only a leaded assembly.
9 Leaded boards are not even allowed in the RoHS room."

10 And she said to him, "It doesn't matter" or "It's no
11 big deal."

12 Well, he knew that it did matter and it was very much
13 a big deal, so he stopped the soldering. He segregated the
14 boards and as was his responsibility, he informed
15 Mr. Fairhead.

16 This is when Mr. Fairhead gets involved in the
17 process because Mr. Fairhead learned that happened. He went
18 out to the floor. He checked to make sure that it no longer
19 was taking place. He spoke with some of the workers on the
20 floor to see if that, in fact, was happening.

21 And then he went and spoke to Ms. Miedema, the
22 corporate human resources manager. And the two determined
23 that they had to talk to Mr. Trujillo.

24 Mr. Trujillo had gone home for the day. So they then
25 met with him the next morning. And in the morning,

1 Mr. Trujillo told Mr. Fairhead that what he had understood was
2 correct, that that's exactly what had happened. He had gone
3 up to his friend, told her the issue. She didn't stop it. He
4 told Patrick. Patrick stopped it.

5 And of course, he mentioned to Mr. Fairhead because
6 it's significant that Ms. Gracia said, "I've done this many
7 times before and nobody ever found out."

8 Now, when Mr. Fairhead and Ms. Miedema got done with
9 meeting with Mr. Trujillo, they brought in Ms. Gracia. And
10 during that meeting, she didn't dispute she knew the customer
11 specification called for leaded. She didn't dispute that she
12 knew that the customer specification had to be strictly
13 followed. She didn't dispute that she knew her hand soldering
14 employees were using RoHS on leaded boards in the RoHS room.

15 And she will not dispute that she knew that if
16 Mr. Trujillo had not brought this to Mr. Silverman's
17 attention, those boards would have been shipped out to the
18 customer even though they didn't comply with the customer
19 specification.

20 Now, you'll hear testimony from Mr. Fairhead. And
21 you'll learn that at this point, it was a very sensitive issue
22 because just a month or so before, a customer had questioned
23 whether the right solder had been applied to a circuit board
24 that SigmaTron had shipped out to the customer. And it had
25 caused -- it caused a lot of stress obviously as you can

1 imagine. And it cost a lot of money. And so he was
2 particularly sensitive to that issue.

3 So now he met with her. He learned all the facts.
4 And he remembered what she said, which was, "I have done this
5 many times before and nobody ever found out."

6 He couldn't jeopardize SigmaTron's reputation. He
7 couldn't jeopardize the livelihood of its many employees. He
8 couldn't jeopardize the heart transplant patients and the
9 doctors, the pilots using the cockpit controls, or the people
10 like you and me using the carbon monoxide detectors. And so
11 he terminated her employment that day.

12 Just to give you a quick recap, the numbers are three
13 and zero when we're talking about SigmaTron's policy to follow
14 its customer specifications.

15 There are three reasons why it's absolutely critical
16 that SigmaTron follows customer specifications. One is that
17 SigmaTron is only as good as its word. It has to do what the
18 customer specifies.

19 Two, a short circuit could lead to a malfunction of
20 the end product. And three, SigmaTron could lose its industry
21 certification and be out of business.

22 And zero, of course, represents Ms. Gracia's comment.
23 "I have done this many times before, and nobody ever found
24 out."

25 Members of the jury, it will be important for you to

1 remember at the end of the case and throughout the case that
2 this case is not about -- it's not against Patrick Silverman.
3 It's against Ms. Gracia's former employer, SigmaTron. I told
4 you numbers would be important during this case, and they
5 will.

6 But the most important number in this case is zero
7 because zero is the number of times Ms. Gracia told SigmaTron
8 while she worked there that Mr. Silverman had sexually
9 harassed her. And zero is the number of options Ms. Gracia
10 gave SigmaTron when she knowingly allowed her assembly line
11 workers, her hand solderers, to use the wrong solder on a
12 customer circuit board.

13 Thank you so much for your time and your attention.
14 At the end of this case, I'm going to come to you and based on
15 all the evidence, I'm going to ask you for a verdict against
16 the plaintiff and in favor of SigmaTron.

17 THE COURT: All right. The plaintiff may call her
18 first witness, but let's resituate the podium if you want to
19 do that first. Go ahead, Mr. Adams, if you want to move that
20 back into place.

21 MR. ADAMS: Plaintiff's first witness will be
22 Mr. Silverman who we understand is available to be brought in.

23 THE COURT: Okay. In the meantime, why don't you
24 change the lectern to where you need it.

25 (Pause.)

1 THE COURT: Please step up here.

2 Please raise your right hand.

3 (Witness sworn.)

4 THE COURT: All right. Have a seat.

5 All right. Mr. Adams?

6 PATRICK J. SILVERMAN, PLAINTIFF'S WITNESS, SWORN

7 EXAMINATION

8 BY MR. ADAMS:

9 Q. Sir, you're Patrick Silverman?

10 A. That is correct.

11 Q. Patrick J. Silverman?

12 A. That is correct.

13 Q. Does Mr. Fairhead ever call you PJ?

14 A. Yes, he has.

15 Q. All the time?

16 A. Pardon me?

17 Q. All the time?

18 A. Occasionally, yes.

19 Q. A nickname he has for you?

20 A. Yes.

21 Q. He didn't have a nickname for Maria Gracia, did he?

22 A. I believe he called her Maria, Jr.

23 Q. Because her mother worked for SigmaTron?

24 A. That's correct.

25 Q. How old are you, sir?

1 A. 48.

2 Q. You live in the Rockford area?

3 A. I do.

4 Q. And you have since at least 2007?

5 A. Yes.

6 Q. In the 2007-2008 time frame, at least you were divorced?

7 A. Yes.

8 Q. You're a current employee of the defendant in this case,
9 SigmaTron?

10 A. That is correct.

11 Q. You've been an employee of SigmaTron since the year 2000?

12 A. That is correct.

13 Q. You always worked at the Elk Grove factory?

14 A. Yes.

15 Q. SigmaTron's senior management also works at the Elk Grove
16 facility?

17 A. Could you define "senior management"?

18 Q. Sure. For example, Mr. Greg Fairhead, the executive vice
19 president.

20 A. Yes.

21 Q. He's worked there as long as you've worked there?

22 A. Yes.

23 Q. Now, SigmaTron has many facilities around the world,
24 correct?

25 A. Correct.

1 Q. Facilities in Texas, in California?

2 A. Yes.

3 Q. Facilities in Mexico, in Vietnam?

4 A. Yes.

5 Q. What other countries?

6 A. Taiwan.

7 Q. Any others?

8 A. You mentioned Mexico. We have a Tijuana plant as well.

9 Q. As long as you've been at SigmaTron, Mr. Greg Fairhead has
10 been senior to you?

11 A. Yes.

12 Q. His brother, Gary, has been for all that time the
13 company's chief executive officer?

14 A. Correct.

15 Q. Now, since the year 2012, the position you've held is that
16 of project coordinator?

17 A. Production coordinator.

18 Q. Production coordinator.

19 A. Yes.

20 Q. And prior to that, you were production manager?

21 A. Correct.

22 Q. As the production manager, you managed the production
23 factory --

24 A. Correct.

25 Q. -- where these circuit boards are assembled?

1 A. Yes.

2 Q. You became a production manager in 2002?

3 A. Yes.

4 Q. In that position, you managed the whole production
5 factory?

6 A. Correct.

7 Q. Including the production assembly lines?

8 A. Yes.

9 Q. And the people who worked on them?

10 A. Yes.

11 Q. And those include, among others, the assembly line workers
12 themselves?

13 A. Yes.

14 Q. The assembly group leaders?

15 A. Yes.

16 Q. And assembly supervisors?

17 A. Yes.

18 Q. Maria Gracia was an assembly supervisor in 2007 and 2008,
19 correct?

20 A. Correct.

21 Q. She had worked her way up from being an assembly worker on
22 the line to that position?

23 A. Correct.

24 Q. Another person who worked for you in the assembly facility
25 was named Eduardo Trujillo?

1 A. Yes.

2 Q. Trujillo is no longer with the company?

3 A. Correct.

4 Q. Trujillo was RIF'd or laid off in an economic downturn in
5 2009?

6 A. Correct.

7 Q. At that particular time, the economy was crumbling. Do
8 you remember that?

9 A. Yes.

10 Q. And SigmaTron went through a restructuring?

11 A. Yes.

12 Q. So there were a number of layoffs?

13 A. Yes.

14 Q. And that was true throughout the industry?

15 A. Yes.

16 Q. It didn't just affect Mr. Trujillo?

17 A. Correct.

18 Q. Different than Maria Gracia, Trujillo wasn't terminated
19 for any purported cause, that was an economic layoff?

20 A. Yes.

21 Q. Sometime after he was laid off, after the economy had
22 picked back up again, you offered him a position that was
23 opening up in the company?

24 A. Yes.

25 Q. You thought enough of him to do that?

1 A. Yes.

2 Q. Michael Murphy, do you know him?

3 A. Yes.

4 Q. He was an engineering manager at SigmaTron's Elk Grove
5 facility?

6 A. Correct.

7 Q. He too is no longer with the company, is he?

8 A. Correct.

9 Q. The current position that you have is a position that you
10 requested?

11 A. Yes.

12 Q. In about 2012, you went to, among others, Mr. Greg
13 Fairhead, the executive vice president, and asked to be
14 reassigned to your current position?

15 A. No, that's not correct.

16 Q. You went to some intermediate supervisor?

17 A. I went to the director of operations for the building.

18 Q. And that director of operations for the building reported
19 to Mr. Greg Fairhead?

20 A. Correct.

21 Q. And you asked to be reassigned to your current position,
22 and your request was granted?

23 A. Yes.

24 Q. During the '07-'08 time frame when you were the production
25 manager, your office was upstairs on the second floor of the

1 Elk Grove assembly facility?

2 A. Correct.

3 Q. Your office wasn't actually on the same level as the
4 assembly rooms, correct?

5 A. No. It overlooked the assembly floor.

6 Q. Maria worked out of a cubicle that was down there on the
7 assembly floor, correct?

8 A. Correct.

9 Q. Maria's cubicle wasn't actually physically located in
10 either any of the assembly rooms themselves, was it?

11 A. I'm sorry. Can you repeat that?

12 Q. Sure. I'll put it another way. Maria's cubicle wasn't
13 physically within the RoHS assembly room, was it?

14 A. No. It was between the RoHS and the leaded assembly room.

15 Q. But not in either of those rooms?

16 A. No.

17 Q. That's correct?

18 A. That's correct.

19 Q. In that time, in the '07-'08 time frame, how many
20 employees worked in the production operation that you ran?

21 A. In total?

22 Q. Give or take, best estimate.

23 A. 130.

24 Q. Maria was a direct report to you, wasn't she?

25 A. Correct.

1 Q. So was Trujillo?

2 A. Correct.

3 Q. How many direct reports did you have at -- in that time
4 frame?

5 A. Just Maria and Eduardo, I believe, at the time, yes.

6 Q. And Maria had been a direct report, in corporate speak,
7 that means you were her immediate supervisor or immediate
8 manager?

9 A. Yes.

10 Q. She had been a direct report to you from the time she took
11 that position as assembly supervisor, correct?

12 A. Correct.

13 Q. You communicated with her on a daily basis?

14 A. Correct.

15 Q. Maybe sometimes several times during the course of the
16 day?

17 A. Yes.

18 Q. Sometimes over the telephone?

19 A. Yes.

20 Q. You recognized her voice?

21 A. I recognized Maria's voice, yes, of course.

22 Q. You recognized Maria's voice in person and over the phone,
23 correct?

24 A. Yeah, yes.

25 Q. Up until, say, the second half of 2008, your impression of

1 Maria was that her attendance was excellent?

2 A. Yes.

3 Q. Her cooperation was good?

4 A. Yes.

5 Q. Her initiatives -- her initiative was very good?

6 A. Yes.

7 Q. Her job knowledge was excellent?

8 A. Yes.

9 Q. Her work quality was good to excellent?

10 A. Yes.

11 Q. And her work quantity, her output, was good?

12 A. Yes.

13 Q. That had been your assessment of her for virtually the
14 entire time she'd been an assembly supervisor up until the
15 middle or so of 2008, correct?

16 A. Yes.

17 Q. She worked hard for SigmaTron over all those years, didn't
18 she?

19 A. Yes.

20 Q. She was a hard worker?

21 A. Yes.

22 Q. You noticed a drop-off in her performance including
23 specifically with respect to her tardiness about six months or
24 so before she was terminated?

25 A. Yes.

1 Q. Say April, May of 2008 time frame?

2 A. Yes.

3 Q. Up until then, in your opinion, she was a good,
4 hardworking employee?

5 A. Yes.

6 Q. You had an e-mail system at SigmaTron during that time
7 frame?

8 A. Yes.

9 Q. In 2007, what was your e-mail address at SigmaTron?

10 A. PatrickS@SigmaTron. I think it was at
11 s-g-m-a-i-n-t-l.com.

12 Q. SigmaTron had, still does have a policy, a written policy
13 respecting its e-mail system, correct?

14 A. Yes.

15 Q. One of the things that the written policy -- I should say,
16 you have read the policy, have you not?

17 A. Yes.

18 Q. It's been given to you and you signed off as having
19 received it, correct?

20 A. Yes.

21 Q. One of the things that SigmaTron's own written e-mail
22 policy directs employees to do is to delete e-mails; isn't
23 that right?

24 A. Yes.

25 Q. And that has been true certainly throughout the 2007-2008

1 time frame?

2 A. Yes.

3 Q. And ever since?

4 A. Yes.

5 Q. And you have complied with that policy, I assume, you make
6 it a habit, a regular practice to delete e-mails, don't you?

7 A. Yes.

8 Q. In all the time that Maria worked for you, you never came
9 right out and asked her to give you sex, did you?

10 A. No.

11 Q. You never forcibly kissed her?

12 A. No.

13 Q. Did you send her e-mails from time to time?

14 A. Yes.

15 Q. I want to ask you about a few of those e-mails. Okay?

16 A. Sure.

17 Q. Would you call up Plaintiff's Exhibit 2?

18 Do you recognize this, Mr. Silverman, as an e-mail
19 that you sent on SigmaTron's e-mail network to Maria Gracia
20 and Mr. Trujillo on or about 14 November 2007?

21 A. Yes. I can see the heading on it.

22 THE COURT: Okay. Mr. Adams, just so that you know
23 consistent with the procedure we talked about before, right
24 now the witness is seeing it. When you move it into evidence
25 and ask to publish is when I will publish it to the jury.

1 BY MR. ADAMS:

2 Q. The subject line of that e-mail is "Redneck tractor pull."

3 A. Correct.

4 Q. There's a photograph that was part of that e-mail,
5 correct?

6 A. Yes.

7 Q. Would you pull up the photograph?

8 The photograph that is to the right of the e-mail
9 header is the photograph that was attached to that e-mail that
10 you sent to Maria Gracia on that date, correct?

11 A. Correct.

12 MR. ADAMS: Your Honor, we'd move it into evidence
13 and ask to publish it at this time.

14 THE COURT: Okay. Any objection?

15 MS. CARPENTER: No, Judge.

16 THE COURT: Okay. It's allowed.

17 (Plaintiff's Exhibit 2 received in evidence.)

18 BY MR. ADAMS:

19 Q. So using your own words, Mr. Silverman, describe what's
20 depicted in that image for our jurors.

21 A. It appears to be a redneck woman pulling some beer on a
22 sled of some sort.

23 Q. Is there anything particularly distinctive about the woman
24 depicted in that picture?

25 A. Just the fact that her thong is being pulled down.

1 Q. Let me close that one, your Honor, and direct the
2 witness's attention only to Plaintiff's Exhibit No. 4.

3 This, Mr. Silverman, is an e-mail that you sent to
4 Maria Gracia on the SigmaTron e-mail network on or about 15
5 November 2007, correct?

6 A. Correct.

7 Q. There was -- the subject of that is "Best beach photo,"
8 correct?

9 A. Yes.

10 Q. And there's a photograph that's part of that e-mail,
11 correct?

12 A. Yes.

13 Q. Would you pull up the photo, please?

14 The photograph is the one that is shown on your
15 monitor to the right of the e-mail header, correct?

16 A. Yes.

17 MR. ADAMS: Your Honor, we move Plaintiff's 4 into
18 evidence and request that it be published.

19 THE COURT: Okay. Any further objection?

20 MS. CARPENTER: No, Judge.

21 (Plaintiff's Exhibit 4 received in evidence.)

22 BY MR. ADAMS:

23 Q. Mr. Silverman, would you describe with your own words for
24 the ladies and gentlemen of the jury what is depicted in the
25 photograph?

1 A. A topless woman laying on a lawn chair.

2 Q. Would you go on to Plaintiff's Exhibit No. 3?

3 Plaintiff's Exhibit No. 3 is an e-mail that you sent
4 to Maria Gracia on 14 November 2007, correct?

5 A. Correct.

6 Q. Also using your SigmaTron e-mail account to Maria Gracia's
7 e-mail account, correct?

8 A. Correct.

9 Q. There's a picture that accompanies that e-mail --

10 MS. CARPENTER: Your Honor --

11 MR. ADAMS: -- is that correct, sir?

12 MS. CARPENTER: Excuse me. If I may call for just a
13 quick sidebar.

14 THE COURT: All right.

15 MS. CARPENTER: Do you want to remove the image?

16 MS. KORN: They don't have it yet.

17 (Proceedings heard at sidebar:)

18 MR. RIORDAN: This appears to be a reprint of the
19 actual e-mail itself. It doesn't contain all of the
20 information that was on it. We just realized that when we
21 said "no objection."

22 MR. ADAMS: Judge, can I speak to that? We have an
23 agreement -- it includes, for example, forwarding from
24 referring counsel to Ms. Korn and so forth. And it was that
25 version of the exhibit was the exhibit that was used in the

1 deposition.

2 But there is, in that native format, a lot of
3 information that isn't really germane to what the jury has
4 been asked to consider. We have it here. We can put it up as
5 a predicate foundation if anyone thinks it's important.

6 MS. CARPENTER: It's very important.

7 MR. RIORDAN: Because it shows that Ms. Gracia sent
8 this e-mail to Ms. Korn the same day that she -- the day after
9 she had a meeting with Sandy Miedema. And they never brought
10 this to our attention.

11 So we're going to point out that her lawyer had this
12 thing. There's no reason why it wasn't disclosed at the time
13 she had these meetings with her employees.

14 MR. ADAMS: So this is one of the issues. They've
15 had the native format with these other two firms forever,
16 since Ms. Miedema was deposed. It's not -- this isn't
17 something that's been sprung on them.

18 This has been a version of this that's been included
19 in the pretrial order from the beginning. It was just
20 presented this way because there is, among other things,
21 attorney-client, to's and from's e-mail.

22 THE COURT: Okay. So was this a version in the
23 pretrial back and forth?

24 MR. RIORDAN: The regular e-mail.

25 MS. CARPENTER: The exhibit --

1 THE COURT: Okay. So rather than hold this up
2 because he can question Mr. Silverman about the parts that he,
3 Mr. Silverman, knows about because he wouldn't know about the
4 forwarding part.

5 MR. RIORDAN: Correct, he would not know.

6 THE COURT: So what you should do is, you can --
7 well, what you should do is after we break for today, I'd like
8 to see the original e-mail of it. And then obviously, we'll
9 be able to address it well in advance of whenever you were
10 going to make the point because it wasn't going to happen in
11 Silverman.

12 MS. CARPENTER: Judge, I believe he just said that he
13 has it available.

14 THE COURT: Right. We're not going to do that right
15 now. So we're going to keep going with the cross so I don't
16 waste the jury's time with something that we can address
17 afterwards. All right.

18 (Proceedings heard in open court:)

19 THE COURT: All right. You may resume. The witness
20 monitor is on, but the jury monitor is still off. Go ahead.

21 MR. ADAMS: Judge, our table is dark again. For my
22 purposes, it doesn't matter so much because I have use of this
23 one.

24 THE COURT: All right.

25 MR. ADAMS: But we're down again.

1 BY MR. ADAMS:

2 Q. I think where I left off, Mr. Silverman, was the photo
3 that came up here next to this e-mail is the photograph that
4 accompanied the e-mail, correct?

5 A. Yes.

6 Q. And that's the photograph that you sent with the e-mail to
7 Maria Gracia?

8 A. Correct.

9 MR. ADAMS: Your Honor, we now move that exhibit into
10 evidence.

11 THE COURT: Okay. Any further objection?

12 MS. CARPENTER: Not more than I just provided, no.

13 THE COURT: All right. It's allowed.

14 (Plaintiff's Exhibit 3 received in evidence.)

15 BY MR. ADAMS:

16 Q. Using your own words again, Mr. Silverman, would you
17 describe for the ladies and gentlemen of the jury the
18 photograph that you sent to Maria Gracia with Exhibit No. 3?

19 A. Yes. It's a woman with extremely large breasts with a
20 bikini top.

21 Q. Okay. Can we go to No. 5, please?

22 Exhibit No. 5 is an e-mail that you sent to Maria
23 Gracia on 21 April 2008, correct?

24 A. Yes.

25 Q. And you sent that with a picture as an attachment. And

1 the picture is described on the attachment line of your e-mail
2 to Maria Gracia as "mama.doc," correct?

3 A. Yes.

4 Q. And that is a picture that you sent to Maria with the
5 e-mail, correct?

6 A. Correct.

7 MR. ADAMS: We move 5 into evidence, your Honor, and
8 ask to publish it.

9 THE COURT: Okay. Any further objection?

10 MS. CARPENTER: No objection.

11 MR. RIORDAN: Subject to the same issue we just
12 talked about.

13 THE COURT: All right. Very well.

14 (Plaintiff's Exhibit 5 received in evidence.)

15 BY MR. ADAMS:

16 Q. The young woman depicted in that photograph is Maria
17 Gracia's kid sister, correct?

18 A. Correct.

19 Q. The face that is superimposed to her right in the
20 photograph, our left as we look at it, is a photograph of the
21 face of Mr. Murphy, a SigmaTron coworker, correct?

22 A. Correct.

23 Q. The caption beneath the photograph is in the Spanish
24 language?

25 A. I believe so, yes.

1 Q. You know what it says, don't you?

2 A. I can see "mama." I'm not sure what "leche" is, but "por
3 favor" means "please."

4 Q. How about, "Mama, milk, please"?

5 A. Okay.

6 Q. Now, these pictures that we just showed the jury you think
7 are funny?

8 A. I thought they were humorous.

9 Q. You thought it would be funny to send those pictures to a
10 younger female direct report at SigmaTron?

11 A. Among others.

12 Q. Maria had never e-mailed you pictures of naked men, had
13 she?

14 A. No.

15 Q. She had never sent you pictures of naked anyone, had she?

16 A. No.

17 Q. She never sent you pictures of your siblings in sexually
18 provocative poses and captions, had she?

19 A. No.

20 Q. You never sent any of these particular e-mails on to
21 Mr. Greg Fairhead, did you?

22 A. No.

23 Q. Maria never asked you to send her pictures of women with
24 extraordinarily large breasts or with bared buttocks pulling
25 beer, did she?

1 A. No.

2 Q. She never asked you to picture -- send unflattering
3 pictures of her kid sister, did she?

4 A. No.

5 Q. She never asked you to send her pictures of naked people
6 of either sex, did she?

7 A. No.

8 Q. She didn't do anything in all the years that you had
9 supervised her and that she had worked loyally for you to
10 suggest that she would appreciate receiving these photographs,
11 did she?

12 A. No.

13 Q. At the time you sent these photographs to Maria Gracia,
14 her mother worked for SigmaTron?

15 A. Correct.

16 Q. Sometime after you sent these photographs, in the
17 2009-2010 time frame, Sandy Miedema, she was SigmaTron's
18 corporate human resources director?

19 A. Correct.

20 Q. She spoke with you about sending non-business-related
21 e-mails over SigmaTron's e-mail network, didn't she?

22 A. Correct.

23 Q. She never mentioned any e-mails in particular, did she?

24 A. No.

25 Q. She never specified these four particular photographs that

1 we just showed to the jury, did she?

2 A. No.

3 Q. She never talked specifically with you about e-mails that
4 were sexually explicit or sexually graphic or that depicted
5 naked women or naked men, did she?

6 A. No.

7 Q. SigmaTron's corporate human resources director, when she
8 spoke with you about your misuse of the SigmaTron e-mail
9 facilities, didn't take issue with the content of any e-mail
10 that you'd sent except that it was of a non-business variety?

11 A. Correct.

12 Q. You've never been disciplined for sending these e-mails to
13 Maria Gracia, have you?

14 A. No.

15 Q. You've not been suspended?

16 A. No.

17 Q. You've not been written up?

18 A. No.

19 Q. And you're obviously still a SigmaTron employee?

20 A. Correct.

21 Q. In 2007 and 2008, you had Maria's personal cell phone
22 number?

23 A. Correct.

24 Q. And you had a company cell phone that was provided for you
25 and paid for by SigmaTron?

1 A. Not in 2007 or '8, no.

2 Q. The phone that you had was a phone into which you had
3 programmed Maria's telephone number?

4 A. Correct.

5 Q. Sometime during that time frame, in the '07-'08 time
6 frame, you attended an after-hours party hosted by a SigmaTron
7 supplier called NEP Electronics?

8 A. Can you state the time frame again?

9 Q. '07-'08 time frame.

10 A. That is incorrect.

11 Q. You have attended supplier parties hosted by NEP
12 Electronics?

13 A. One.

14 Q. And that one party you believe was held near Maria
15 Gracia's home?

16 A. I was told so, yes.

17 Q. And at that party, you're aware that an after-hours call
18 was placed from your phone to Maria Gracia, aren't you?

19 A. Correct.

20 Q. And in that phone call, Maria was invited to come to the
21 party?

22 A. Yes.

23 Q. You have never, ever discussed with Ms. Miedema whether
24 this particular after-hours phone call on your cell phone from
25 the NEP party to Maria was placed by you or someone else using

1 your phone, have you?

2 A. Have I discussed that with anyone else, is that your
3 question?

4 Q. With Ms. Miedema.

5 A. About how the phone call was placed, yes, I have.

6 Q. So I'm going to direct your attention, sir, to a
7 deposition that you gave in this case. Do you recall that?

8 A. Yes.

9 Q. And that was on 29 November 2012?

10 A. Yes.

11 Q. And at the deposition, you were placed under oath just as
12 you have been here today?

13 A. Yes.

14 Q. Swore to tell the truth?

15 A. Yes.

16 Q. And you were prepared for and presented at that deposition
17 by SigmaTron's lawyers?

18 A. Yes.

19 Q. They sat right by your side?

20 A. Yes.

21 Q. Directing your attention --

22 THE COURT: One second. Let's take a sidebar.

23 MR. ADAMS: Sure.

24 (Proceedings heard at sidebar:)

25 THE COURT: Do you have an extra copy of this, or is

1 it on your disk?

2 MS. CARPENTER: I do have depositions on my disk.

3 THE COURT: They're on the jurors submission?

4 MS. CARPENTER: Yes.

5 THE COURT: So I will look there. But if you're
6 going to do impeachment because, you know, they may object
7 that it's not impeaching, I need to be able to follow along.

8 MR. ADAMS: You don't have this, is what you're
9 saying.

10 THE COURT: Exactly. But the defense is saying that
11 it's -- so you had it marked as an exhibit.

12 MS. CARPENTER: We just put them in a file on the
13 disk. They're not actual exhibits.

14 THE COURT: Okay. So I'm going to go back to my
15 computer and check and see if it's there. Do you have an
16 extra paper copy?

17 MR. ADAMS: The one I'm working with is the only
18 copy.

19 THE COURT: Just wait here one second and let me see
20 if it's on my computer.

21 (Pause.)

22 THE COURT: Back to the sidebar for a minute. It's a
23 dot PTX file. What do you usually use to open that?

24 MR. ADAMS: I'm sorry?

25 THE COURT: What program do you use to open it?

1 MS. CARPENTER: It just opens.

2 MR. ADAMS: Judge, I've got it here physically on a
3 zip drive. I can give it to you that way.

4 THE COURT: I'm sorry?

5 MR. HALL: I've got it here physically on a zip drive
6 and can give it to you that way.

7 THE COURT: If you can do that right now.

8 MS. KORN: He's working on it right now. It's going
9 to be on --

10 THE COURT: And then we'll deal with the rest of it
11 later. Okay.

12 (Proceedings heard in open court:)

13 THE COURT: All right. Ladies and gentlemen, we're
14 going to pause here. In an effort to be paperless, sometimes
15 things get missed. And so I'm waiting for my digital copy of
16 this transcript.

17 (Pause.)

18 THE COURT: Okay. What page and line?

19 MR. ADAMS: Page 46 beginning at Line 14 and
20 continuing on to Page 7 at Page 47, your Honor.

21 THE COURT: Okay. Any objection?

22 MS. CARPENTER: No, Judge.

23 THE COURT: All right. Go ahead.

24 MR. ADAMS: And the witness has it now but not the
25 jury, correct?

1 THE COURT: Right, but you need not and should not at
2 this point show it to the witness. So the witness's monitor
3 is actually off because you can just do the Q and A, see if he
4 remembers.

5 BY MR. ADAMS:

6 Q. Okay. Very good.

7 Mr. Silverman, you had an opportunity to review the
8 deposition transcript before you came to court this afternoon?

9 A. Yes.

10 Q. Do you recall at the deposition where you were under oath
11 in reference to the issue of this telephone call on your phone
12 from the NEP party to Maria Gracia being asked the following
13 questions and giving the following answers:

14 "Question: Did you ever speak with Ms. Miedema about
15 it?"

16 Answering with a question: "Have I ever spoken to
17 Ms. Miedema about it?"

18 The question to you then was: "At the time, you
19 know, in" -- and you said: "In 2007 or 2008?"

20 The questioner clarifies: "Yeah, that's the time
21 frame."

22 And you answered: "No."

23 Do you recall being asked those questions and giving
24 those answers?

25 A. What did I answer "no" to? I'm sorry.

1 Q. The question was: "Did you ever speak with Ms. Miedema
2 about the late night telephone call from your phone to Maria
3 Gracia that originated at this NEP party," being asked, "Did
4 you ever speak with her about it" and answering "no"?

5 A. I was questioned by Greg Fairhead and Ms. Miedema, yes.

6 Q. My question, sir, is at your deposition --

7 A. Yes.

8 Q. -- when you were under oath, do you recall being asked,
9 "Did you ever speak with Ms. Miedema about it" and answering,
10 "no"?

11 A. Then I was confused at the deposition. I'm sorry. I did
12 speak -- I was spoken to by Ms. Miedema and Greg Fairhead or
13 asked about it, inquired about it.

14 Q. And do you recall then, sir, in the deposition back in
15 November of 2012 when you were under oath being asked whether
16 you spoke with Greg Fairhead about this late night telephone
17 call and answering, "no"?

18 A. I might have been confused about the late night telephone
19 call.

20 Q. And you were confused, you're saying, when you were asked
21 those questions and gave those answers at the time of your
22 deposition?

23 A. I believe I was confused about the time frame. This late
24 night telephone call took place in 2004. I believe I was
25 being asked if I made a call in 2007 and '8, or '8.

1 Q. So the -- just to be clear, when you were asked in the
2 deposition, "Did you ever speak with Ms. Miedema about it," do
3 you recall answering in your deposition, "no"?

4 A. I must have if you're telling me that.

5 Q. Would it refresh your recollection, sir, to see the
6 transcript?

7 A. Sure.

8 MR. ADAMS: Can we pull that up?

9 THE COURT: Okay. Is there any objection to showing
10 the witness this portion of the transcript?

11 MS. CARPENTER: Judge, I think the testimony has been
12 that if he said that, it was confused and we can move on.

13 THE COURT: Do you want to refresh memory?

14 MR. ADAMS: Yes, sir.

15 THE COURT: Okay. So it's overruled.

16 Okay. Why don't you direct him to what you want him
17 to read.

18 BY MR. ADAMS:

19 Q. Okay. So we're at Page 46, Line 14 and what follows there
20 on that page. Do you see that, it's highlighted?

21 A. I can see that, yes.

22 Q. Does that refresh your recollection as to whether when
23 asked in your deposition the question, "Did you ever speak
24 with Ms. Miedema about it," you answered, "no"?

25 A. I understand that, but I believe I was answering to, did I

1 make a call in 2007 or '8 and did I speak about a call in 2007
2 or '8, I did not.

3 Q. You never told Greg Fairhead that it was another
4 individual named Dave Niemi who placed that call from your
5 phone, did you?

6 A. I did.

7 Q. Do you recall, sir -- and you can take that down -- at the
8 deposition when you were under oath, and I'm at Page 47, Line
9 1 and following, with reference to Greg Fairhead:

10 "Question: You never told him that it was Dave Niemi
11 who made the call," and answering, "I don't recall having a
12 conversation."

13 A. But we did have a conversation.

14 Q. That's your testimony today?

15 A. That's my testimony today, absolutely.

16 MS. CARPENTER: Judge, I object just to completeness.
17 I think it would be more appropriate to have the entire
18 soliloquy mentioned, Lines 1 through 7.

19 THE COURT: It's overruled.

20 BY MR. ADAMS:

21 Q. So you remember that today, but when you were testifying
22 under oath in November of 2012, you didn't recall having any
23 such conversation, correct?

24 A. I believe I was confused about the subject.

25 Q. Do you recall that on or about 24 October 2008, you were

1 called in to a meeting with Greg Fairhead and Sandy Miedema
2 and Maria Gracia?

3 A. Vaguely, yes.

4 Q. You were called in at the tail end of that meeting?

5 A. Yes.

6 Q. You were informed by Mr. Fairhead or Ms. Miedema when you
7 came into the meeting that Maria had raised concerns about the
8 way you were treating her?

9 A. Yes. That's also when I found out about the phone call as
10 well.

11 Q. In the conversations that you testified under oath that
12 you didn't remember having back in your deposition?

13 A. I believe I was confused about that.

14 Q. And in that meeting, what you explained was that the phone
15 calls that originated from your telephone that were made to
16 Maria Gracia from this party were made not by you but by
17 somebody named Dave Niemi?

18 MS. CARPENTER: Objection, Judge, hearsay.

19 THE COURT: Response?

20 MR. ADAMS: Judge, that is most certainly not offered
21 for the truth. This is information that he claims to have
22 conveyed to SigmaTron's corporate officials.

23 THE COURT: Overruled.

24 THE WITNESS: The question again, please?

25 BY MR. ADAMS:

1 Q. What you explained about that telephone call was that the
2 telephone call was placed late at night, correct?

3 A. Yes.

4 Q. From a party, correct?

5 A. Yes.

6 Q. That Maria was, in fact, invited out to the party?

7 A. Correct.

8 Q. But that the call that originated from your telephone
9 wasn't placed by you but that it was placed by somebody named
10 Dave Niemi?

11 A. Correct.

12 Q. Mr. Niemi, to your recollection, was an employee of
13 SigmaTron at the time?

14 A. Absolutely.

15 Q. So that discrepancy then would have been an easy enough
16 thing to verify by asking Mr. Niemi if he placed the call,
17 correct?

18 A. Yes.

19 Q. At that time that you now recall these events, Mr. Greg
20 Fairhead is the EVP over the Elk Grove operation; he had
21 authority to pick up the phone and tell Niemi to come into the
22 meeting, didn't he?

23 A. No, he didn't. This was asked four years after this call
24 took place.

25 Q. Do you know whether any official of SigmaTron ever

1 attempted to ask Dave Niemi whether he placed this call?

2 A. I don't know that.

3 Q. At the conclusion of the 24 October 2008 meeting, you and
4 Maria were asked to shake hands and go back to work?

5 A. Correct.

6 Q. Maria was terminated on the 5th of December of 2008,
7 correct?

8 A. Yes.

9 Q. Greg Fairhead told you that he was the one that had
10 terminated Maria's employment?

11 A. Yes.

12 Q. He called you on the phone right after he did it?

13 A. Yes.

14 Q. And the reason that he told you he did it was that Maria
15 had been mixing solder on production units?

16 A. Correct.

17 Q. And that was the one and only reason he told you he did
18 it?

19 A. That's what he told me, yes.

20 Q. He didn't say anything about tardiness, did he?

21 A. No.

22 Q. Now, you had been the one who reported the soldering
23 discrepancy to him, to Greg Fairhead?

24 A. Correct.

25 Q. And this wasn't the discrepancy that you were the first

1 one to have seen with your own eyes, was it?

2 A. Can you rephrase that?

3 Q. Sure. You weren't the first one at SigmaTron to have
4 observed this soldering discrepancy, were you?

5 A. No.

6 Q. You don't recall the time of day you learned about it?

7 A. No.

8 Q. And this was something you learned about on the 4th of
9 December, correct?

10 A. Correct.

11 Q. The very day before Maria was terminated?

12 A. Yeah, it would have been.

13 Q. When you had the conversation with Greg Fairhead in which
14 you reported the soldering discrepancy to him, the first thing
15 he asked is whether the problem had been corrected?

16 A. Are you asking me that?

17 Q. Yes, sir.

18 A. The first thing he asked was what, can you say it again?

19 Q. Whether the problem had been corrected.

20 A. Not so much corrected, had I -- had I segregated the
21 product.

22 Q. When you learned about the discrepancy --

23 A. Yes.

24 Q. -- you called Maria over to that area where the soldering
25 discrepancy was occurring?

1 A. Yes.

2 Q. And you confronted her with the discrepancy?

3 A. Yes.

4 Q. And your recollection is that she said to you, quote,
5 "it's no big deal," closed quote?

6 A. I believe so, yes.

7 Q. You then immediately segregated that product that had been
8 mixed with the wrong solder in that assembly area, correct?

9 A. Correct.

10 Q. When you reported the discrepancy to Greg Fairhead, you
11 told him that you had stopped it and segregated the units that
12 had been affected, didn't you?

13 A. Correct.

14 Q. After that and after Maria Gracia was terminated, you
15 recall a meeting with Greg Fairhead and Sandra Miedema in
16 which Ms. Miedema asked you, quote, "Did you do anything to
17 sexually harass Maria Gracia?"

18 A. I don't remember that.

19 MR. RIORDAN: I'm sorry. Can we have a time frame on
20 that question, Mr. Adams?

21 BY MR. ADAMS:

22 Q. Sure. Do you recall a meeting right after Maria Gracia
23 was terminated with Greg Fairhead and Sandra Miedema in one or
24 the other of their offices at SigmaTron?

25 A. Vaguely, yes.

1 Q. And you recall then that Sandy Miedema asked you, "Did you
2 do anything to sexually harass Maria Gracia"?

3 A. Yes, she asked me that.

4 Q. She asked you that the day after Maria had been fired?

5 A. I don't know that it was the day after.

6 Q. It was certainly in 2008?

7 A. It could have been in 2009. I do a lot of meetings with
8 the people.

9 Q. In reference to the same deposition that you gave under
10 oath --

11 A. Yes.

12 Q. -- and directing the Court and counsel's attention to Page
13 51, in this specific meeting, do you recall being asked at
14 Line 12 --

15 MS. CARPENTER: Judge, I object to an improper
16 impeachment.

17 THE COURT: Okay. Lines 12 through what?

18 MR. ADAMS: Lines 12 through 14.

19 THE COURT: Okay. Overruled.

20 BY MR. ADAMS:

21 Q. Do you recall in reference to that meeting being asked,
22 "And when did she ask you that" in reference to Sandy Miedema
23 asking you, "Did you do anything to sexually harass Maria
24 Gracia," and giving the answer under oath, "It had to be in
25 2008. I think it may have been right after Maria left. I

1 don't recall exactly."

2 Do you recall that?

3 A. Yeah.

4 Q. And that's your recollection today, that it was sometime
5 in 2008?

6 A. Sure.

7 Q. So if Maria was fired on the 5th of December of 2008, it
8 happened sometime within the ensuing 26 days, correct?

9 A. Sure.

10 MS. CARPENTER: Excuse me, Judge. I don't know if we
11 could have a brief sidebar.

12 THE COURT: All right.

13 (Proceedings heard at sidebar:)

14 MS. CARPENTER: Judge, on Page 52, they're speaking
15 more about the date of when -- they're trying to figure out
16 when they talked about this sexual harassment. It goes on to
17 say, "I believe it was because Maria had filed suit with the
18 company."

19 MR. RIORDAN: He doesn't know that.

20 MS. CARPENTER: It's incomplete.

21 THE COURT: What you can do on redirect is go ahead
22 and ask him and rehabilitate him on that subject. But it was
23 proper impeachment in the first place because he was trying to
24 pin it down. He said it had to be in 2008. And he even
25 firmly said it was right after Maria left.

1 And so you can rehabilitate on your direct exam.

2 (Proceedings heard in open court:)

3 THE COURT: All right. Next question.

4 BY MR. ADAMS:

5 Q. So then within three weeks at least, perhaps nearer the
6 time of her termination than that, SigmaTron's HR rep and
7 corporate HR director was asking you whether you had sexually
8 harassed Maria Gracia, correct?

9 A. I don't remember if it was sexually, but I do remember she
10 asked if I had harassed her at all.

11 Q. What you recall Ms. Miedema asking you was, quote, "Did
12 you do anything to sexually harass Maria Gracia?"

13 Isn't that what you recall her asking you --

14 A. Sure.

15 Q. -- within three weeks of Maria Gracia's firing?

16 A. As best as I can remember, yes.

17 Q. Not three years?

18 A. Not three years, no.

19 Q. And when she asked you that, Greg Fairhead, SigmaTron's
20 executive vice president, was sitting in the room?

21 A. I believe so, yes.

22 Q. And they told you that because they told you that Maria
23 Gracia had made a complaint against the company for sexual
24 harassment, didn't they?

25 A. No, they did not. They asked me.

1 Q. When you were asked if you had ever done anything to
2 sexually harass Maria Gracia in that meeting with the two of
3 them shortly after Maria's firing, you denied that you'd done
4 any such thing, correct?

5 A. Correct.

6 Q. Do you recall that they asked you about some of the
7 specific allegations of harassment that she had made against
8 you?

9 A. Are you asking me if I recall the specific allegations?

10 Q. Not whether you recalled the specific allegations but you
11 recall that they did ask you about some of the allegations or
12 incidents of harassment in which Maria had complained you'd
13 been involved.

14 A. Yes.

15 Q. After you denied that you had done anything at all to
16 sexually harass Maria Gracia, were you asked any other
17 questions?

18 A. No.

19 Q. Greg Fairhead has never said anything to you about the
20 four e-mails and those pictures that you sent to Maria Gracia?

21 A. No.

22 Q. And no action has been taken against you by SigmaTron on
23 account of your having sent them?

24 A. No.

25 MR. ADAMS: Can I have just a second, Judge?

1 THE COURT: You may.

2 MR. ADAMS: That's all I have, Judge. Thanks.

3 THE COURT: Okay. Direct exam?

4 EXAMINATION

5 BY MS. CARPENTER:

6 Q. Mr. Silverman, I just want to go back.

7 A. Okay.

8 Q. Is it your understanding that Sandy Miedema and Greg
9 Fairhead had a legal complaint that had been filed by
10 Ms. Gracia --

11 MR. ADAMS: Objection, your Honor. The question is
12 leading.

13 MS. CARPENTER: -- when they were --

14 THE COURT: Finish the question.

15 BY MS. CARPENTER:

16 Q. -- when they were asking you about Ms. Gracia's
17 allegations?

18 THE COURT: Overruled.

19 THE WITNESS: What was the question? I'm sorry.

20 BY MS. CARPENTER:

21 Q. Sure.

22 A. Can you put a time frame on that?

23 Q. Yes.

24 A. I'm confused. I'm sorry.

25 Q. Was it your understanding that when Sandy and Greg came to

1 you and asked you about allegations Ms. Gracia had made
2 against you, a legal complaint had been filed and they were
3 looking at the complaint and asking you questions about it?

4 A. Yes.

5 Q. And as you sit here today, you don't know when that legal
6 complaint was filed?

7 A. No.

8 Q. And at the time of your deposition, you weren't sure when
9 this conversation took place about those allegations?

10 A. Correct.

11 Q. Okay. I want to talk a little bit about you,
12 Mr. Silverman. Where did you grow up?

13 A. I grew up in the Joliet area.

14 Q. Did you attend school there?

15 A. I went to school at Lockport.

16 Q. Did you go on to receive a college degree?

17 A. Yes. I took a job with Rockwell International in Downers
18 Grove. And when that division was sold, I moved south or
19 central, southern Illinois, and I took some college classes
20 there.

21 Q. What kind of job did you have at Rockwell?

22 A. Building circuit boards.

23 Q. And how long were you there with Rockwell?

24 A. I was there at Rockwell for five years and then
25 transferred south, and I was there for nine years.

1 Q. All with the company Rockwell?

2 A. Rockwell and then ultimately Charles Industries who bought
3 the division.

4 Q. Did your position change while you were with Rockwell and
5 then with Charles?

6 A. Yes. When I was at Rockwell, I was just a service mount
7 operator on the floor. And when the division was sold, I was
8 offered a job as a supervisor.

9 Q. Did you accept that position of supervisor?

10 A. Yes.

11 Q. What were your duties as a, I think you said, an SMT
12 operator, service mount operator?

13 A. Service mount operator, set up, run the equipment, perform
14 first article QC and build product.

15 Q. And then when you received -- or accepted the higher level
16 supervisor position, what was your duties then?

17 A. Then it was managing all the SMT or supervising all the
18 SMT operators in the same duties.

19 Q. How long did you stay with Rockwell and then Charles?

20 A. I was with Rockwell for five years, and then I was with
21 Charles for nine years.

22 Q. At some point, you left employment with Charles?

23 A. Yes.

24 Q. Where did you then become employed?

25 A. SigmaTron.

1 Q. Why did you leave Charles? Sorry.

2 A. I left Charles, well, I was offered a job by SigmaTron.

3 And the telecommunication industry had taken a crash in 1999,
4 so they were hurting.

5 Q. You weren't let go, though, from Charles?

6 A. No. I resigned from Charles.

7 Q. No one asked you to resign, right?

8 A. No.

9 Q. Why did you choose SigmaTron?

10 A. I chose SigmaTron because I wanted a larger company. The
11 company I was with down south was a town of 3,000 people, 17
12 miles to the next town. It was -- I had pretty much used up
13 all my fervor there that I could. So I wanted a company that
14 was bigger, an international company, more opportunities.

15 Q. And what position did you start as at SigmaTron?

16 A. I started as an SMT manager.

17 Q. How long did you hold that position?

18 A. Two years.

19 Q. And what position were you promoted to next?

20 A. Manufacturing manager.

21 Q. And how long did you hold that position?

22 A. Until 2011, I believe.

23 Q. So roughly nine years?

24 A. Nine years.

25 Q. And then since 2011, what's your position?

1 A. Production controller.

2 Q. What do you do as a production controller now?

3 A. I schedule the factory from incoming materials all the way
4 to the completed unit out, shipped out the door, everything in
5 between. I schedule all departments, all priorities for
6 everyone.

7 Q. And you're familiar with customer specifications, I take
8 it?

9 A. Yes.

10 Q. Is it important to follow customer specifications?

11 A. It's imperative, yes.

12 Q. Why is that?

13 A. Well, we build a product that a customer wants. And they
14 want it the way they want it. We are -- the reason it's so
15 important is -- well, there's a multitude of reasons really.
16 Could be compliance with directives, European directives and
17 such. It could be compliance within their industry. It's --
18 there's really -- it's multifaceted. It really is.

19 Q. Are customer specifications allowed to be given to
20 SigmaTron verbally?

21 A. No, no. They're in writing.

22 Q. What if a change needs to happen to the customer
23 specification; can that be given verbally?

24 A. No. That also has to be done in writing.

25 Q. And when you say "in writing," who has to be involved with

1 writing up that customer specification?

2 A. The customer specification, if -- whether it's being
3 released as a new product or changed on the floor or, you
4 know, the customer is requesting to make the change, they will
5 submit documentation to our program manager.

6 Our program manager will release what's called an
7 ECO, or an engineering change order. And within the QMS
8 system, these change orders are put up for everyone to have
9 access to the documents.

10 Q. And can you tell us, what's the QMS system?

11 A. QMS is the quality management system. We have a
12 certification in our industry called ISO. And ISO is, it's
13 the -- it's the directive, quality directives that you have to
14 follow for every customer no matter who it is. This includes
15 pictures, visual aids, bills of material which is the
16 component listings, things like that.

17 And when everything comes in from the customer, it's
18 called a control document. And you don't build on the floor
19 without a control document. So these specifications are all
20 part of that.

21 Q. I'd like to show you Exhibit 15-2.

22 MR. ADAMS: Judge, we remain shut down over here.

23 THE COURT: One second.

24 MR. ADAMS: Okay. Here we go. Thank you.

25 THE COURT: All right. Go ahead.

1 BY MS. CARPENTER:

2 Q. Can you see the document?

3 A. Yes.

4 THE COURT: And Ms. Carpenter, this is witness only
5 for now.

6 MS. CARPENTER: Yes.

7 BY MS. CARPENTER:

8 Q. Can you tell me what it is?

9 A. This is a component specification for a customer. Yes,
10 that's what it is.

11 Q. And you've seen it before?

12 A. Yes.

13 Q. Is this the type of control document you would receive
14 from a customer and it would identify what type of
15 specification was called for, for example, for the circuit
16 board and the solder?

17 A. Correct.

18 MS. CARPENTER: We ask that the -- this be published
19 to the jury and admitted into evidence.

20 THE COURT: Okay. Any further objection?

21 MR. ADAMS: Just relevance, Judge.

22 THE COURT: Okay. It's overruled on that ground.

23 (Defendant's Exhibit 15-2 received in evidence.)

24 BY MS. CARPENTER:

25 Q. Mr. Silverman, do you know whose customer specification

1 this particular document was for?

2 A. I believe it was for Intermatic, pool, spas.

3 Q. Is -- sorry.

4 A. Intermatic.

5 Q. Did that document have any relevance in Ms. Gracia's

6 December 4th, 2008, actions?

7 A. Absolutely --

8 MR. ADAMS: Objection to form, Judge, and foundation.

9 THE COURT: It's overruled.

10 BY MS. CARPENTER:

11 Q. You said absolutely, it had relevance. Can you tell me
12 why?

13 A. This was the solders that Ms. Gracia mixed on this exact
14 product, this specification.

15 Q. Can you show us where on this document it shows the type
16 of solder that was supposed to be used?

17 A. Sure. If you look under "manually mounted components," it
18 does specify leaded on top side of the circuit board, leaded
19 on bottom side of the circuit board.

20 Q. Is that where those three stars are on each side?

21 A. Yes.

22 Q. So based on this customer specification, is there any
23 question that this needed to be an assembly with leaded
24 circuit board and leaded solder?

25 MR. ADAMS: Objection, leading.

1 THE COURT: Overruled.

2 THE WITNESS: Again, I'm sorry.

3 BY MS. CARPENTER:

4 Q. Based on this customer specification, was there any
5 question that this customer was requiring a leaded circuit
6 board and a leaded solder be used?

7 A. Yes.

8 Q. There was a question? It was a bad question. Let me --

9 A. Yes, it's leaded.

10 Q. Okay.

11 A. Is that your question?

12 Q. Could RoHS be used?

13 A. No.

14 Q. Only leaded could be used --

15 A. It would say lead-free or RoHS.

16 THE COURT: Okay. It's just past 4:30, so we'll
17 conclude our trial day today.

18 Ladies and gentlemen, we'll start again tomorrow at
19 9:00. I'm going to ask you to be here at about 8:45. And
20 we'll have some breakfast items for you.

21 I'm going to give you your daily instruction, which
22 is to not discuss the case with anyone, even amongst
23 yourselves, not with your family, your friends, or anyone
24 else. Do no research into the case at all whether into the
25 facts, the law, the parties, anything at all about the case.

1 And we'll see you tomorrow morning. All rise.

2 (Proceedings heard in open court. Jury out.)

3 THE COURT: Okay. Let's take care of, I think there
4 was one item for the record and then it's just technology. So
5 I'm going to ask you, Moon, if you can just stay around
6 because we'll take care of this. And then we've got a number
7 of technology issues to deal with.

8 Okay. The substantive issue -- and you can sit. The
9 substantive issue is the exhibit which contained the e-mail.
10 And I think this may apply to at least two of the four, all
11 four of them.

12 MR. RIORDAN: Three.

13 THE COURT: Three of the four. Okay. So it's
14 Plaintiff's Exhibit -- so for the defense, why don't you
15 identify for me the ones that you think are incomplete.

16 MS. CARPENTER: It's the best beach photo --

17 THE COURT: I'm sorry?

18 MS. CARPENTER: It's the best beach photo. I'm just
19 trying to pull it up. I'm sorry.

20 THE COURT: Okay. That's 4. So that's one of them,
21 Plaintiff's Exhibit 4. All right. What else?

22 MR. RIORDAN: Judge, can we have just a moment to
23 gather our thoughts here on how best to handle this?

24 THE COURT: Okay.

25 (Pause.)

1 MS. CARPENTER: Judge, I don't want to waste your
2 time.

3 THE COURT: I think the issue overall is just if
4 there were any exhibits that you, the defense, wants to
5 propose as an additional exhibit based on a communication of
6 one of the four e-mails or more to Ms. Korn, is that what
7 you're proposing to do basically?

8 MS. CARPENTER: Judge, this is my -- this is what
9 prompted this. If we look at Plaintiff's exhibit list, she's
10 identified, for example, No. 2 is ECF 52, e-mail from P.
11 Silverman to plaintiff, redneck tractor pull. And then she
12 goes on, 53, 54, and 56. And I don't have those particularly
13 in front of me.

14 But her version of those documents is not the ECF
15 version. She's modified that version. For example, the best
16 beach photo is missing the "to" and "from" between Ms. Gracia
17 and Ms. Korn. And that was the one that had been filed.

18 THE COURT: Okay. So I am asking at this point
19 whether or not you want to introduce the e-mail versions that
20 have the e-mail being forwarded on to Ms. Korn.

21 MS. CARPENTER: Yes.

22 THE COURT: And so what is your objection to that?

23 MS. KORN: My objection is that that -- I'm sorry.
24 My objection is that that information forwarding from my
25 client to me was inadvertently produced and is completely

1 irrelevant.

2 THE COURT: Okay. And so it would have been -- it's
3 not irrelevant in the sense that the defense has the theory
4 that the -- these e-mails were then not reported to SigmaTron
5 and yet they were reported to you.

6 Now, did you try to claw back the -- what was
7 inadvertently disclosed and could have been covered by
8 attorney-client privilege?

9 MS. KORN: No, I did not. I did not -- I believe
10 it's only a problem with one of the four e-mails. And I only
11 became aware of it quite recently, so no, I did not try to
12 claw it back.

13 THE COURT: Okay. So is it with just this one,
14 the --

15 MS. CARPENTER: Judge, I don't have them all in front
16 of me. I'm sorry.

17 THE COURT: All right.

18 MS. CARPENTER: I'm happy to bring copies of them
19 tomorrow and introduce them as our exhibits or whatever you
20 would like.

21 THE COURT: All right. So how -- what would be your
22 argument that these are not covered by attorney-client
23 privilege?

24 MS. CARPENTER: Well, there's no content. It's just
25 a date of when they were forwarded to her attorney.

1 THE COURT: Right. We can -- so I suppose we can
2 require a proffer. But isn't it pretty plain that if it's
3 being forwarded to her attorney that it's being sent with the
4 purpose of seeking legal advice?

5 MS. CARPENTER: Judge, this is the first time that
6 Ms. Korn has ever asserted the privilege. Effectively, she's
7 waived the privilege. One of our demonstratives,
8 Demonstrative 29, for example, identifies specifically her
9 "from" and "to," and she never before objected to it.

10 THE COURT: Right. So I'm trying to -- I understand
11 that there has not been a previous objection. And Ms. Korn
12 has stated that this was inadvertent.

13 So I'm trying to figure out, balancing first
14 substantively what would have been the correct answer had
15 there been a timely assertion of the privilege. Then the
16 question will be the balance of harm and whether or not it is
17 prejudicing you in some way or there is something else that
18 you can elicit, for example, from the plaintiff that would be
19 sufficient but not intrude on the attorney-client privilege.

20 So for example, if you were to ask the plaintiff,
21 "You believe that this e-mail could have been part of your
22 legal case," right, and I think that based on the
23 communication that was sent, she would have to concede yes.

24 But just let's answer the substantive question first.
25 All right. Is there an argument that this would not be

1 covered by attorney-client privilege?

2 MS. CARPENTER: Yes. Just because someone sends a
3 document to their attorney does not mean that the document
4 itself is privileged.

5 THE COURT: Okay. And so can you proffer what the
6 plaintiff would say was the purpose of forwarding this
7 communication?

8 MS. KORN: I can proffer that the plaintiff sent me
9 the document for the purpose of seeking legal advice about her
10 employment situation.

11 THE COURT: And you were -- you had been retained by
12 the plaintiff at this point?

13 MS. KORN: In terms of having an engagement letter
14 signed, no.

15 THE COURT: Okay. And so what was the relationship
16 at this point?

17 MS. KORN: She was a -- she was a client. She was
18 seeking legal advice. She and I were exploring whether the
19 situation that she found herself in was one which would
20 support bringing a case.

21 THE COURT: Okay. So this is what we'll do. If you
22 want to exclude this, given that this -- the document was
23 disclosed, it was, what I'm hearing now, identified by Bates
24 number as the exhibit that the plaintiff wanted to introduce
25 and that it contained a -- the part of the e-mail that

1 forwarded it to you, it is now up to you to move to exclude
2 it.

3 And so if you want to find -- if you want to exclude
4 it, then you need to file by sometime tonight a motion that
5 cites case law that says that in the formation of the
6 attorney-client relationship, a potential attorney-client
7 relationship, that the attorney-client privilege can cover
8 that aspect, okay, and then number two, why should this not be
9 deemed as waived given that you identified it as an exhibit,
10 you've disclosed it and there was no claw-back attempt.

11 And I'll also note that in the plaintiff's -- that
12 the defense binder of objections to the plaintiff's proposed
13 trial exhibits, Exhibit No. 3 was -- and I still have the
14 binder on the bookshelf here -- had the e-mail portion that
15 was forwarded to you, Ms. Korn.

16 Okay. So it had been -- it does appear to have been
17 specifically identified affirmatively as the plaintiff's
18 exhibit. So it will be up to you to file a motion if you want
19 to exclude that portion.

20 MS. KORN: Thank you.

21 THE COURT: And that applies to any other of the four
22 e-mails for which this happened. I don't know if it happened
23 for more than one. So you should identify for the plaintiff
24 what you believe should be admitted, and then it will be up to
25 you to exclude it.

1 MS. CARPENTER: Judge, just a fundamental issue to
2 raise is, when we received her list and she identified
3 specifically a document that had been filed on the court's
4 website, that's what we expected would be the one put into,
5 you know, evidence.

6 So even if it doesn't contain this, you know, if she
7 didn't remove some information from it, it's not the same
8 exact one. It's basically a demonstrative of it.

9 THE COURT: Okay. So I mean, the harm there is
10 minimal because all you're saying is that they can just take a
11 Wite-out to the top. So that's not really the issue. The
12 issue right now is whether or not that header information
13 comes in, whether or not it's in the same font as the original
14 e-mail.

15 Okay. Any other substantive issues before I ask
16 Systems to help us on the multiple problems we have?

17 MS. CARPENTER: No, Judge.

18 THE COURT: Okay. All right. So we're off the
19 record, Judy.

20 (Proceedings adjourned from 4:44 p.m. to 8:30 a.m.)
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